



Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact support@jstor.org.

PROCEEDINGS

OF THE

MASSACHUSETTS HISTORICAL SOCIETY.

OCTOBER MEETING, 1914.

THE stated meeting was held on Thursday, the 8th instant, at three o'clock, P. M.; the PRESIDENT, Mr. ADAMS, in the chair.

The record of the last meeting was read and approved; and the Librarian reported the list of donors to the Library since the last meeting.

The Cabinet-Keeper reported the purchase of twelve medals; and gifts of the medal of the DeMeritte School, Boston, from Edwin DeMeritte; of the medal of the Springfield Convention of the American Numismatic Association, from Waldo C. Moore, of Lewisburg, Ohio; of a medal of Williams College, from John A. Lowe; of a photograph of a painting of a Mr. Smyth, of Philadelphia, said to be a son of George IV and Mrs. Fitzherbert, painted perhaps by Gilbert Stuart; also a lithographic reproduction of a portrait of Washington "done in New York, 1790," from Miss Alba Davis; of a photograph of a portrait of Hon. William Gray, from Edward Gray; and of a statuette of Daniel Webster, after Ball's statuette of 1853, from Rev. Palfrey Perkins; also a campaign circular in the shape of a \$1000 bill of fiat money, issued in 1880 in opposition to the Greenback Party.

The Corresponding Secretary reported the receipt of a letter from Joseph Grafton Minot accepting his election as a Resident Member of the Society.

The Editor reported the publication of a new volume of *Proceedings*, 1913-1914, being the XLVIIIth of the series, which

had just been distributed to members; and the approaching issue of the first volume of *Commerce of Rhode Island*, 1726-1800 (Seventh Series, vol. ix), and *The Letters and Papers of John Singleton Copley and Henry Pelham*, 1739-1776 (vol. 71).¹ He also spoke of the reproduction of early Massachusetts newspapers by the photostatic process now undertaken by the Society. Progress has already been made with the *Boston News-Letter*, and with other libraries coöperating it is believed that every known issue of Boston newspapers from 1704 to 1774 will in time be accessible in this city, either in the original or in facsimile.

The Editor reports the following gifts of manuscript material:

From Mr. SHAW, a number of interesting printed notices of societies and public meetings, all of 1847. Among the papers is the catalogue of wines sold at auction from the estate of Mr. Justice Story, with lots described as "'Judicial.' Imported expressly for the Judges of the Supreme Court, U. S."

From Mrs. Bradley Gilman, of Canton, Massachusetts, a large number of letters of the Foster family, including letters from the three brothers, Dwight Foster (1757-1823), a representative and Senator from Massachusetts in the United States Congress; Theodore Foster (1752-1828), a United States Senator from Rhode Island; and Peregrine Foster, who went with the Marietta colony to Ohio. These letters contain valuable historical material, apart from their interest as family papers, and extend from 1757 to 1859.

From Mr. Edward Gray, of Groton, Massachusetts,² three deeds, 1755, on stamped paper, the stamp being an embossed codfish and "11 Pence" surrounded by a circle composed of the words "Staple of the Massachusetts"; a contemporary copy (1766) of an exoneration of Rev. Penuel Bowen from a charge of plagiarizing from Dr. Doddridge; a contemporary copy in manuscript of Wilkes' "North Briton, No. 45," and other papers.

From Mrs. Ellis B. Usher, granddaughter of Samuel

¹ In place of continuing series of ten volumes each, future issues of the *Collections* will be given volume numbers. The similar course was taken with the *Proceedings*.

² Author of *William Gray* (1914).

D. Partridge, a number of notes and legal papers of Cotton (1765—) and Samuel (1775-1856) Partridge, of Hatfield — a well-known family of that town. They run from 1808 to 1836.

From Mr. Stanley Webster Smith, of Boston, letters and papers, 1695-1833, consisting of depositions and other court papers, and commercial letters from Nantucket to Aaron Lopez and Christopher Champlin, of Newport.

The PRESIDENT said:

Seldom does the Society meet after the summer intermission that it does not devolve on the presiding officer to announce the death of either a member, or of some one otherwise associated with us, as having occurred during the intervening four months. The present constitutes no exception to the general rule. Two of our Resident Members have died since we last met — Abner Cheney Goodell, at Salem, July 20, and Alexander McKenzie, at Cambridge, August 6.

In accordance with the custom long since adopted, it will devolve on others than myself to offer characterizations, and subsequently to prepare memoirs of those just named. I shall confine myself to matters bearing on their connection with the Society and their activities in it. I will merely say that Mr. Goodell and Dr. McKenzie were contemporaneous and both octogenarians, — the former having been born in Cambridgeport, October 1, 1831, and the latter in New Bedford, December 14, 1830. Mr. Goodell was elected a Resident Member March 9, 1871; Dr. McKenzie, December 8, 1881. Mr. Goodell's membership thus covered the long period of forty-three years, while that of Dr. McKenzie, though ten years less, saw a generation born, grow up and pass off the stage. At the close, Mr. Goodell's name stood third on our roll of Resident Membership; that of Dr. McKenzie stood ninth.

Though elected in 1871, Mr. Goodell's activities in connection with the Society did not begin until twelve years later. March 8, 1883, he read his first communication — a paper I well remember, on the "Execution of Mark and Phillis for the Murder of Captain John Codman of Charlestown," a case of "petit treason," the murder of their owner by slaves, occur-

ring in 1755. This paper — an extremely interesting one — appears in volume XX of the First Series of our *Proceedings* (pp. 122-157). During the succeeding years Mr. Goodell was one of our most frequent and considerable contributors, and nearly everything to which he called attention originated in the work on which he was engaged as Editor of the Massachusetts Province Laws. Taken altogether, those papers cover a large number of topics of historical interest, some of them of importance. To those at all acquainted with Mr. Goodell's methods, it is needless to say that they all bear evidence of tireless investigation. In 1886 Mr. Goodell was appointed a member of a committee to examine and report upon the alleged Sharpless portraits of Washington. The same year he was also a member of the committee to consider the subject of indexing foreign Revolutionary documents relating to American affairs. During the next fifteen years his contributions were constant, and he served on more committees than I have time to enumerate. Elected a member of the Council in 1885, his service was continued until April, 1887.

Mr. Goodell's editorial methods in connection with the Province Laws had long excited adverse legislative criticism, both because of the slowness with which the work progressed and the cost entailed. Into this subject it is unnecessary now and here to enter in detail. The criticism provoked was attributable both to the commendable qualities and to the limitations of Mr. Goodell's mind and methods. Essentially an antiquarian, with him exactness was unquestionably carried to excess. In fact, it knew no limit. Neither was the sense of historical importance and proportion developed in him, if indeed it can be said to have existed. Time was of no moment. Naturally, under these conditions, all things relating to the past assuming in his mind importance, the work he did and the plan he laid out in connection with the Province Laws of Massachusetts may be said practically to have known no limit. It diverged into fields of investigation, both innumerable and inexhaustible.

Thus, though Mr. Goodell was in many respects an interesting character and his work had unquestioned value, it cannot be denied that to those who liked to see things accomplished on a reasonable basis of labor and cost, he was also an aggrava-

tion. The combative element in his make-up was, moreover, pronounced. Unable to conform to the views of others, he aroused antagonisms which ultimately led to the discontinuance of his services in connection with what had become the work of his lifetime. As President of this Society, I found myself drawn into that legislative wrangle, and it entailed some examination on my part of Mr. Goodell's work, his methods and results. Deeply impressed as I was by his research and indefatigable industry, he yet continually recalled to me a passage in Thomas Carlyle's Essay on Sir Walter Scott, published in 1838 in the *Westminster Review*. Carlyle there says:

But indeed, in all things, writing or other, which a man engages in, there is the indispensablest beauty in knowing *how to get done*. A man frets himself to no purpose; he has not the sleight of the trade; he is not a craftsman, but an unfortunate borer and bungler, if he know not when to have done. Perfection is unattainable: no carpenter ever made a mathematically accurate right-angle in the world; yet all carpenters know when it is right enough, and do not botch it, and lose their wages, by making it too right. Too much pains-taking speaks disease in one's mind, as well as too little. The adroit sound-minded man will endeavour to spend on each business approximately what of pains it deserves; and with a conscience void of remorse will dismiss it then.

That closing clause exactly expressed what Mr. Goodell was unable to do. He could not bring himself to "spend on each business approximately what of pains it deserved; and with a conscience void of remorse to dismiss it then." He was simply untiring — indefatigable; and, as I have said, in matters historical, he lacked all sense of proportion. I mention this fact because it accounts, in my belief, for the discontinuance in 1901 of the contributions of Mr. Goodell, and of his active connection with the Society. That year the further work of editorship of the *Province Laws* was transferred to another, also a member of this Society; and I have reason to think he felt this had been in some degree due to a failure on our part to give him the legislative support he thought his due.

In any event, our records indicate that the last appearance of Mr. Goodell at our meetings was in June, 1901. He then made some remarks on the quotations found in the writings

of Mr. Webster. Previous to this he had attended at a few more than half of the meetings since his election. Especially was his attendance frequent between 1883 and 1901. Nevertheless, to those of the members who remember the Society as it existed prior to the year 1900, Mr. Goodell was and will continue to be conspicuous, both personally and in his efforts. Naturally, however, his absence now causes in us no sense of immediate loss.

At his death one of our oldest members, two years after his election in 1883, Dr. McKenzie became a member of the committee to publish the *Proceedings*. His service on that committee continued until November, 1907, being the longest ever rendered by any individual in that connection. During those years the Society published the entire Second Series and a part of its Third Series — twenty-two volumes in all. A frequent and invariably interesting speaker at the meetings he attended, Dr. McKenzie had a singular and attractive facility of extemporaneous utterance. His command of language was great, words flowing from him in well-ordered sentences which, taken down, at the moment of their utterance, might be put in print almost without revision. For a presiding officer it was, therefore, a pleasure, to call on him; and I am especially mindful of his tributes to Professor Smyth, to Dr. Herrick, to Professor Allen, and especially that to William Everett, who, though much younger than Dr. McKenzie, had been his roommate at Harvard. Between his election in 1881 and the time of his withdrawal from activities in 1910, Dr. McKenzie appears to have been one of our more regular attendants.

Altogether, he was an active and interesting, as well as fruitful member of our Society. His presence would be greatly missed had not four years and a half already intervened since he ceased coming.

Born in New Bedford, Dr. McKenzie came of the old stock, his father having been a typical whaling captain. Our associate Mr. Crapo is its present last living representative, and it gives us all satisfaction to see that his great regard for one he knew from boyhood has brought him here to-day. He will, I hope, speak from personal knowledge of those local but pre-natal educational influences which made Dr. McKenzie what he was.

In the first place, however, I shall call upon Mr. Schouler, formerly a Resident, but now a Corresponding Member, to speak of his classmate and friend in life, Dr. McKenzie; afterwards I shall ask Mr. Waters to pay tribute to his fellow Salem representative, Mr. Goodell.

Mr. SCHOULER read the following tribute:

Our deceased fellow-member, Dr. McKenzie, pursued a long and eminent career in the Christian ministry; and the religious and secular presses, since his death last August, have paid united tribute to his memory, recalling his distinguished and successful service to the public and his fellow-citizens as a preacher, philanthropist and spiritual guide. I have no such intimate acquaintance with his life work as would qualify me to add to the characterization of others in this Boston and Cambridge vicinity, where his lot was mostly cast; but as a college classmate and one who saw something of him in his early manhood, besides following fairly his later career, I may perhaps at this time add something to the record.

No one among you can recall those earlier years of his life or review his prolonged activities who is not himself one of your older fellow-members in point of years; and such a one I may now consider myself. And yet my earliest and latest and most constant impression of McKenzie has been that he was a man much older than myself both in years and feelings — never a youth, always a sage; one to be looked up to for counsel and guidance, but not to be known familiarly.

Alexander McKenzie was born in New Bedford in 1830. He died at his home in Cambridge, about two months ago, after a pastorate there of more than forty consecutive years, followed by about four years of retirement as emeritus. His death occurred at the advanced age of eighty-three. It is well known that, after a common school training, he entered mercantile life as a clerk and bookkeeper and served an important business house in Boston; that, feeling a strong religious impulse, while thus employed, to enter the sacred ministry, he was aided and encouraged in his wishes by his generous employers; and that, in pursuance of such new plans of life, he entered Phillips Academy, just at the turn of majority, to study Latin and Greek and prepare for college. And thus did

I first meet him, myself a youth of sixteen, coming to Cambridge from distant Cincinnati, to be, like him, a Harvard freshman in the Class of 1859.

Our class numbered one hundred the first year and graduated only slightly smaller; and this was a good average total for college classes in those earlier times. McKenzie was by far the oldest man among us; more than eight years my own senior, which counted much to one in the adolescent teens. For in that era many of us collegians graduated at the age of twenty, while the greater number finished the four years' course at or soon after reaching majority. McKenzie was nearly thirty years old when he graduated, and completed afterwards his preparation for the Congregational ministry at Andover Theological Seminary in 1861. Hence among us college mates, playful in the free effervescence of youth, McKenzie moved a full-grown man, sedate and lonely, mature in thought and worldly experience and having already a fixed purpose in life while most of his classmates were doubtful or heedless of the future.

McKenzie attended oral recitations with his fellows of the same alphabetical section. He came out of college neither the first nor the second scholar in the class; but he held a high rank in his studies and was diligent and industrious. He was an older man than some of those to whom he recited — Charles W. Eliot, for instance, later famous, who for our class was tutor in mathematics.

In a simple and natural way McKenzie gained quickly great influence with his classmates, setting before them a high personal example of probity and honor. That influence was largely enhanced by the fact that, throughout our college course, the brilliant William Everett was his chum and roommate. The relationship had been arranged by Everett's distinguished father, in order that his young and precocious son might have a sort of proctor rather than a comrade to watch over him and guard his growth.¹ They roomed in the yard and in a college building, which is the best means of assuring a large and varied class acquaintance. Everett, sociable, self-confident and full of animal spirits, visited much the rooms of other classmates, whereas McKenzie, courteous to such as called, went little outside, but kept somewhat secluded, as

¹ For Dr. McKenzie's own statement on this point see *Proceedings*, XLIII. 414.

befitted one of his age and temperament. He sustained well his own unique position and, although not given to witticism or playful banter, he smiled indulgently and kindly on the frolicsomeness that went on about him, like one who could appreciate, but had himself put away all childish things. We learned to regard him as the patriarch of the class, our elder brother many years removed. Early in our sophomore year he was made President of the Institute and performed the duties of that post with dignity and discretion. He had already by general consent been booked for chaplain of the class at our graduation.

The college incident concerning this fellow-student which has left the strongest and most durable impression on my memory occurred towards the end of that same sophomore year and relates to the action taken by our Class of 1859 with reference to the Greek Letter societies. One of those societies, the least liked in college at the time, had made early canvass of our class and induced three or four of the most popular men to pledge themselves to join it when the proper time should arrive. Our class leaders, indignant, pressed these men to retract; but they felt that they could not in honor do so, though regretting the step they had hastily taken. Thereupon these leaders conceived the idea of persuading the whole class to repudiate the Greek Letter societies and refuse as a body to enter them. The broad ground they took, however, was that such societies were detrimental to class unity; a burden rather than a benefit so far as affiliation with like chapters in other colleges was concerned; and productive besides of jealous dissensions among ourselves. McKenzie was prevailed upon to advocate such repudiation, though he could hardly have been a party to the original grievance. A meeting of the class was called to consider and decide the question. The attendance was large, and in the discussion that ensued McKenzie's speech was the strongest, decisive of the issue. With uplifted face and animated voice and gesture, after the pulpit manner characteristic of him in later life, he besought and exhorted us all to cherish constantly class unity and class acquaintance. "I want," said he earnestly, "to see my classmates growing stronger and stronger in the bonds of affection, each and all of them. I want to know them and I want to love them."

That speech, and most of all that particular passage, touched the hearts of all assembled. It brought over the doubtful and wavering among his listeners and carried the meeting. By a large and conclusive majority the Class of 1859 voted to stand out from all the Greek Letter societies and have no fellowship with them.

That speech, we may fairly suppose, was McKenzie's earliest effort as a preacher before a congregation worthy of the name. Such an occasion for exhortation he could hardly have found at Phillips Academy; and it was not until our Senior Exhibition of May, 1859, that, before the usual large and cultured audience of both sexes in the old chapel of University Hall, he delivered his well-written dissertation on "The Eloquence of St. Chrysostom," sailing in at one rear door and out of the other in flying silk gown, as the custom then was with those of us who had parts, to hold forth from an improvised platform in front of the pulpit, where sat President Walker in academic costume, to announce in Latin each orator.

As so many of this Society are fellow-alumni of Harvard I may be permitted to give the sequel of this bold departure taken by our class. For a few months the flame of class unity mounted high and burned brightly. We formed a Class Society to which all were admitted, adopting the Chinese name of "Wen Tchang Koun," which the knowing ones assured us had an appropriate meaning. We hired parlors in the old Brattle House for reading, general conference and conversation. On a few memorable occasions we held evening entertainments for the full class, such as a mock trial, the reading of a paper with special class contributions¹ and a mirthful charade on the name of one of our professors, ending with a mimic lecture on natural philosophy. But class affection began to flicker and fail in our junior year, when elections to the great Hasty Pudding Club came in slow and gradual order. That supreme of social honors at college, with its accompanying adornment in one's room of the symbolical black ribbon whose owner's name was inscribed thereon in white letters, the ambitious among us coveted greatly. But for these elections the balance of the Greek Letter societies, each with its representative men,

¹ McKenzie made a poetical contribution to my paper. The verses, full of class spirit, are still in my possession, in his own handwriting.

was now wanting; and our popular leaders, as hitherto recognized, got to controlling those elections from within to please too much a set of favorites and parasites. Boon companionship prevailed against talent and quiet tastes.

At length some of the excluded ones started an opposition literary society known as the "O.K.," and the sixteen men chosen to it on behalf of '59 gave our class much distinction in later life. A clear schism and not mere petty dissensions now vexed us, and our much vaunted class unity vanished into the limbo of fond illusions. Class politics became bitter. For Class Day and the final class honors at graduation the "O.K." seniors set up candidates in opposition to the old class slate which former leaders, now in control of the "Hasty Pudding," still held out for acceptance. Class elections were held early in the second senior term and the "O.K." ticket was carried at the polls against the "Hasty Pudding." There were heartburnings among classmates in consequence at our graduation which only time's slow process could heal.

Meanwhile the classes succeeding ours entered the Greek Letter societies and the chasm we had made was bridged over. The "Hasty Pudding" speedily regained its supremacy and composure in the social life of the college; while the "O.K.," handed down to worthy successors, settled into a permanent literary society of repute, discarding all further harsh rivalry.

As for McKenzie himself, no loss or diminution was suffered in his quiet popularity. He remained as before, above all reach of class turbulence, looked up to and respected; still aloof from intimacy, as nature compelled, and better appreciated rather than better known. He did not exhort us again, but suffered class matters to take their course, interesting himself specially in the college society of Christian Brethren, where he bore an important part. With great unanimity we chose him chaplain of the class, as foreordained at the beginning, and the patriarch of '59 became its priest. In this, at least, the class made no mistake; for McKenzie's qualities of mind and heart were sterling. How admirably he served, through a long life and career, in the Congregational ministry, by preaching and example, is well known in and far beyond this community. He was faithful, too, to the many kindred trusts, charitable and educational, committed to him; always judicious,

always mature. No life could have better fulfilled the hopes of those who saw him turn from mercantile pursuits to the ministry or justified more amply the high ideals of its earliest manhood.

Mr. CRAPO spoke as follows:

The members of this society knew Alexander McKenzie the man. I knew Alec McKenzie the boy. He and I were playmates. Our homes were directly opposite on the same street. We attended the same public schools and took part in the same sports. In his youth he was somewhat slender in physique. His manners were gentle. He was never rough or aggressive. He was not a leader in the school room or on the playground, for he was too modest and retiring. He was thoughtful and a good scholar. He was thoroughly conscientious, anxious to know what was right and determined to do right. His companions liked him because he was helpful and sympathetic. When he left school he came upon the problem which every boy at that period had to meet — the problem of employment and how to become a wage earner. Some boys went to a trade, others into a store or counting room, and still others shipped as cabin boy on a whaler. Young McKenzie sought employment as a clerk in a bank but was not successful. He made applications in other directions with the same result. At last he found a situation in a grocery store, and after a while by some great good fortune he had employment in Boston, and there he met friends who recognized his merits and who encouraged him to further study and to prepare for and enter college, which he did, graduating with the class of 1859 from Harvard. After he left New Bedford I saw little of him, for our steps led in different directions.

It is difficult for me to speak of Alexander McKenzie without speaking of his father, Daniel McKenzie, a man whom I greatly admired. He was a splendid specimen of the whaling captains of seventy-five and eighty years ago. He was a man of daring, undaunted in danger, and never shirking in times of peril, self-poised and self-reliant. His occupation as a whaleman was one of great hazard. Modern devices have lessened the risk attending the pursuit and capture, but in those earlier years it was a hand to hand fight with the monsters of the deep.

The spirit of the conflict can be inferred from the slogan used by the boat's crew as it pushed from the vessel to engage in the chase — "A dead whale or a stove boat!" Often it was a stoven boat, a boat crushed in the jaws of an infuriated whale, the crew leaping into the water, an oar their only life preserver, floating on the ocean until a companion boat could come to their rescue. Daniel McKenzie's sea-life was one of extraordinary adventure. In the War of 1812, when nineteen years of age, the whaling ship in which he was serving as boatsteerer was captured by an English man-of-war and he was confined as a prisoner at Capetown. After suffering much privation there he was removed to the Dartmoor prison, where he remained many months enduring the brutality of that prison pen. If character is influenced by the strain and stress of life, the father of Alexander McKenzie had ample opportunity for character making. He was well informed. During his voyages he had read many books of history and travel. He visited seaports in distant parts of the world. He dealt with barbarous and savage tribes in the South Sea Islands when in quest of water, wood and yams. After retiring from the seas he made his home at New Bedford, where he became a favorite of all classes. His readiness of speech, his fund of adventurous stories, and his gentle humor, made him an entertaining companion, while his good sense, and sound judgment, and earnest efforts for local improvements and the promotion of every worthy cause brought to him the esteem of his townsmen. In my boyhood I thought the great men of New Bedford were not its rich merchants but its retired whaling-masters.

While the father and son were different in education, training and vocation, they had traits in common. Both had a keen sense of duty and a willing purpose to meet it. Both were kind-hearted and broad-minded, and unselfishly sought to make men happier and advance the betterment of the communities in which they lived.

I never heard Dr. McKenzie preach his sermons from the pulpit, but on several occasions I have listened to him when he spoke on topics of philanthropy, social welfare and reform movements. On one occasion many years ago when speaking in behalf of a rescue mission or some kindred charity, he mentioned an event in his boyhood. It was a trifling incident, but

as I have remembered it I venture to repeat it. In doing so I will preface it with a reference to a custom of that period. A whale ship, homeward bound, as it approached the coast displayed from the mast head the private signal of its managing owner. As the vessel entered Buzzard's Bay, passing by Cuttyhunk, this signal could not be seen from the town. It was first discovered with the aid of a spy glass by the lighthouse keeper on Dumpling Rock. When he had satisfied himself of the identity of the signal he took from the chest in the lighthouse its duplicate which he hoisted on the flag staff on Dumpling. This could not be seen from the wharves or business part of the town, but might be seen from elevated ground. One morning word came from the observatory on the hill that a vessel was in the bay inward bound and that it was the *Falcon*, Captain Daniel McKenzie. Young McKenzie, a mere lad, heard the report and rushed to the dock where the pilot boat was moored. He reached there just as it was about to sail to bring the vessel into the upper harbor. He begged the pilot to take him in the boat in order that he might greet his father on the ship. The pilot consented, and when the pilot boat and the ship approached each other in the bay, Capt. McKenzie saw a little boy in the boat and soon recognized him as his son from whom he had parted two years or more before. When the boat came alongside the ship the Captain shouted to the mate, "Throw a line to my boy." The line was thrown and the boat's crew carefully adjusted it about the little fellow and he was hauled in safety on to the deck of the vessel where he embraced his father. The story itself was in no way remarkable. It was the application which Dr. McKenzie made of it which has remained in my memory. He said there were thousands of boys and girls floating on the sea of life, friendless and homeless. Who will throw a line to these boys and girls? Who will throw a line to save them from the wiles of the wicked and from destruction by devouring human sharks? This appeal made to a New Bedford audience, some of whom had known Dr. McKenzie in his boyhood and remembered his father, was impressive.

The last time I saw Dr. McKenzie was a few years ago when he came to New Bedford and spoke to the Old Dartmouth Historical Society. His address consisted of reminiscences of

his boyhood and school days in that town. In a charming, unconventional, conversational way, with touches of humor, he told the stories of his youth to a delighted gathering. Only one or two of his comrades of the old Green School house on Bush Street were present to welcome him; but those who listened to him gave him a hearty greeting, for they knew him to be a man of sincerity and purity of character, loyal to the truth and a leader in good works.

Mr. WATERS spoke briefly on Mr. Goodell's career and character.¹

Mr. JONATHAN SMITH read a paper on

TORYISM IN WORCESTER COUNTY DURING THE WAR FOR INDEPENDENCE.

Beginning with the establishment of royal authority in the colonies, the people naturally divided into two parties, the Conservative or Tory, and the Radical party, which took the title of Whig, both names borrowed from the mother country. The former included the royal officials, whose salaries depended directly or indirectly upon the Crown, and most of their friends; the Anglican clergy almost unanimously, with a few ministers of other denominations; the aristocracy of culture, with most of the lawyers; many of the holders of large property; the dynastic Tories, or king worshippers; those who honestly believed that Parliament had the right to tax the colonies; and also those who were swayed by factional feuds and interests, of which were the De Lancey and Livingston families of New York.

On the other side were the Whigs, who included the farmers, the mechanics and laborers, nearly all the dissenting clergy and a good many representatives of the wealthy and educated classes.

From the earliest settlement the whole course of events had tended to emphasize this division of parties and widen the gap between the two. The spirit of hostility, indeed, showed itself in Massachusetts as early as 1638, and from that date down to the battle of Lexington it constantly grew, intensified by every new law or decree of Parliament relating

¹ He reserves his remarks for his Memoir of Mr. Goodell.

to revenue laws, trade regulations or taxing statutes affecting the colonies. The Stamp Act, the Boston Massacre, the Boston Port Bill and the quartering of royal troops in Boston were but successive steps on the road, which began with the first settlement and ended in open war. The history of the Assemblies both of Massachusetts and New Hampshire from their first institution down to 1775 is one long story of quarrels, bickerings and controversies between the representatives of the people and the royal governors. By the latter date all this had been going on for one hundred and forty years, with constantly growing bitterness and intensity. The people had taken sides, and their choice was based upon profound political convictions, so that when the clash of arms came they were ready to submit their claims to the gage of battle.

At the outset the Tory party had one great advantage. It held the executive of the State and all the appointive places down to the least official. It also had the judiciary, the sheriffs and many of the leading officers of the militia. Appointees of royal power were found in every town. As a rule they were of the cultured and wealthy class and were among the leading citizens of their several communities, and being widely connected through their official and family kinships, they exerted a great influence. All the instruments of power were completely in their hands; but they were conservative, slow to act and utterly failed to realize their danger or to grasp the opportunity which in the early stages of the controversy was in their control. On the other hand, the patriot party, under a determined and aggressive leadership, acted with the greatest energy and vigor. When the differences became acute it promptly filled every municipal office with its own friends. Through committees of safety and correspondence it organized in all the towns, and with an iron hand and by mob and vigilance committees it suppressed all symptoms of Toryism, drove every Tory from office or compelled him to resign, and by its lawless and violent acts so intimidated the citizens that they did not dare to express Tory opinions if they held them, and so compelled them to maintain silence or to espouse the popular side. In a word, the Whigs immediately seized all the instruments of power formerly held by the opposite party and used them remorselessly for the extermination of their enemies.

Worcester County probably contained as few loyalists as any section of New England. The conduct of the patriots in that part of the State towards the English sympathizers may be taken as a fair example generally of the action and attitude of the two organizations towards each other, and the temper and feeling of each side toward that of the opposite faith. Where the parties were more evenly divided, the feeling was more bitter.

Before 1774 there had been many acts of violence which intensified the hostilities of the two divisions, but after the several acts relating to the colonies, passed by the British Parliament in 1774, the colonists visited their wrath upon their enemies wherever found. Some details of their conduct will illustrate the strong tension of the time. One of the first objects of popular anger was the Mandamus Councillors of whom four — namely, Timothy Ruggles, John Murray, Timothy Paine and Colonel Abijah Willard — were from Worcester County. This Council, which previously had been chosen by the retiring Council and State Assembly, was, under the Parliamentary Act of 1774, appointed by the royal Governor and paid by the Crown. With the approval of the Governor, the Council appointed the sheriffs and the sheriffs selected the juries. When the appointments were known, the people of the county took the matter in hand. They visited Colonel Ruggles, in Hardwick, attacked his house in the night time and ordered him to depart. He promised to do so when the sun was an hour high in the morning, which he did, and was never seen again in Hardwick. Meanwhile the mob closely cropped the mane and tail of his horse, painted its body and maimed and poisoned his cattle. John Murray, of Rutland, was a colonel of the militia and the largest real estate owner in the county. The town Committee of Safety, accompanied by five hundred men from Worcester, who were joined by one thousand others, visited him to demand his abandonment of the office. Not finding him at home, they left word that unless his resignation appeared in the papers within so many days they would visit him again. Colonel Murray quailed before the gathering storm and fled to the British army in Boston and never again saw his Rutland home. A crowd of fifteen hundred people, of Worcester, met and chose a committee to wait

upon Timothy Paine at his home in that town and demand his resignation. After some hesitation he wrote it out; he was then told to read it with his hat off, which was done, and he was not again molested. Colonel Abijah Willard, of Lancaster, had been a distinguished officer in the war of 1745, commanded a regiment in the French and Indian war and was one of the most eminent men in that part of the province. After he had been sworn in as Councillor, he was arrested in Union, Connecticut, whither he had gone on business, taken to Brimfield, where a mob of four hundred people condemned him to imprisonment. On the way to jail they released him on his signing the following humiliating retraction:

STURBRIDGE, August, 25, 1774.

Whereas, I, Abijah Willard, of Lancaster, have been appointed by Mandamus, a Councillor for this Province, and have without due consideration taken the oath, do now truly and solemnly declare that I am heartily sorry that I have taken said oath, and do hereby solemnly and in good faith promise and engage that I will not sit or act in the said Council, nor in any other that shall be appointed in such manner and form, but that I will, as much as in me lies, maintain the Charter Rights and Liberties of this Province; and do hereby ask the forgiveness of all honest, worthy Gentlemen that I have offended by taking the above said oath; and desire this may be inserted in the public prints.

Witness my hand.

ABIJAH WILLARD.¹

This bitterness of feeling between the contending parties was based on intense political convictions and the questions at issue, as the people understood them, went down to the foundations of government itself. A writer in the *Massachusetts Spy* ² in 1775 thus delineates a Tory and Toryism:

The word means, one who is a maintainer of the infernal doctrine of arbitrary power, and indefeasible right on the part of the sovereign, and of passive obedience and non-resistance on the part of the subject. The Tory maintains the King holds his crown by none but God, while the people were made entirely for him, and that he had a right to dispose of their fortunes, lives and liberties

¹ *Military Annals of Lancaster*, 196.

² *Massachusetts Spy*, March 9, 1775.

in defiance of his coronation oath, and the eternal laws of reason, without the subject having any right to demand redress of grievances or their being denied to seek it for themselves.

It may be doubted whether the Tory himself would agree with this definition, but it was certainly very near King George's understanding of his royal prerogative.

The action of the Worcester County blacksmiths in 1774 showed the lengths to which the people were determined to go in defence of their cause.¹

We, the subscribers, being duly impressed with the sense of our duty to our Country, paternal affection for our children and unborn millions, as also for our personal rights and liberties, solemnly covenant, agree and engage to and with each other, that from and after the first day of December 1774, we will not according to the best of our knowledge, any or either of us, nor any persons by our directions, order or procure for any or either of us, do or perform any blacksmith work or business for any kind whatever for any persons or person whom we esteem enemies of this country, commonly known by the name of Tories, viz, all Councillors in this Province appointed by Mandamus, who have not publicly resigned said office; also persons who publicly addressed Gov. Hutchinson on his departure from this province, who have not publicly recanted; and also every officer exercising authority by virtue of any commission tending to carry any of the late oppressive acts of Parliament into execution in America; and in particular we will not do any work for Timothy Ruggles of Hardwick, John Murray of Rutland and James Putnam of Worcester, Esquires, nor for any person or persons cultivating, tilling, improving, dressing, living on or occupying any of their lands or tenements. Also we agree to refuse our work of every kind as aforesaid to all and every person or persons who shall not have signed the non consumption agreement, or have entered into a similar contract or agreement, or that shall not strictly conform to the Association or covenant agreed upon and signed by the Continental Congress lately convened at Philadelphia.

We further agree that we will not work for any mechanic, tradesman, laborer, or others that work for, or in any ways, or by any means whatever, aid, assist or promote the business or pecuniary advantage, pleasure and profits of any of the said enemies to this country.

Resolved, That all lawful ways and means ought to be adopted

¹ *Mass. Archives*, CLXXXI. 369.

by the whole body of the people of this province, to discountenance all our inveterate political enemies in manner as aforesaid. Therefore, we earnestly recommend it to all denominations of artificers that they call meetings of their respective craftsmen in their several counties as soon as may be, and enter into associations and agreements for said purposes. And that all husbandmen and laborers, etc., do the like; and that whosoever shall be guilty of any or either of the articles or agreements be held by us in contempt, as enemies to our common right.

While many of the things were done without authority of law, statutes were early passed which gave full power to the local officials to suppress all disloyal sentiments. On October 26, 1774, the Provincial Congress,¹

Resolved That the committee of Safety shall watch carefully and diligently inspect and observe all persons as shall at any time attempt or enterprise the destruction, invasion, detriment or annoyance of this province and whenever they deem necessary to alarm and muster the militia.

Again, by the Act of February 9, 1775, it was made the duty of the Committee of Safety,²

To most carefully and diligently inspect and observe all and every such person or persons as shall at any time attempt to carry into execution by force, an Act of the British Parliament for regulating the government of the Province of the Massachusetts Bay or an Act for the Impartial administration of justice or for the suppression of riots and tumults in the province of the Massachusetts Bay.

The Second Provincial Congress, which met in May of the same year, after setting forth the disloyal acts of divers persons,³

Resolved That it be and hereby is recommended to the several committees of correspondence in the several towns and districts where such committees have been appointed, and to the selectmen of such towns and districts as have not appointed them, to inquire into the principles and conduct of suspected persons and that they cause all such to be disarmed who do not give them full and ample assurances, in which they can with safety confide, of their readiness to join their countrymen on all occasions in defence of the

¹ *Journals Provincial Congress*, 32.

² *Ib.*, 89.

³ *Ib.*, 205.

rights and liberties of America; and likewise that they take effectual steps to put it out of the power of such persons to obstruct, by any means whatever, the measures which shall be taken for the common defence.

Two years later, in 1777, the State Assembly enacted a law¹ directing the selectmen forthwith to call a town meeting and elect some person firmly attached to the American cause to procure and lay before the Court all evidence against any individual showing him to be inimical to the American cause, and whose residence here would be dangerous to the State. The selectmen were required to lay before the voters a list of all known to be disaffected towards American liberty. A citizen could move to have the name of any person inserted in the list. This list was to be delivered to the justices of the peace, who were to issue their warrants of arrest against a suspected party and bring him before them. There was a jury trial, and if convicted the defendant was sent to the Board of War, which could transport him.

By another act² passed May 9 the sheriff was directed to arrest any person deemed by the Council dangerous to the State. The sheriff was authorized to break the doors of the dwelling or building, in the day or night time, of the person named in his warrant and convey him to jail, to be held without bail until released by the Council or court. The Test Act³ passed in 1776 required every male person over sixteen years to declare his allegiance to the colonial cause and to repudiate the sovereignty of King and Parliament. If he refused, he was to be disarmed and disqualified from holding office; twenty-four hours were given him to sign, and if he then refused, his arms were seized and he was arrested and brought before the Court. The militia could be called upon to assist in enforcing the law. If an official refused to act, his office was declared vacant and the town was forthwith to select his successor. One so refusing was denied the right to vote, and if a minister or teacher, he could not recover his salary. Still another enactment compelled every official,⁴ civil and military, and attorneys to take the oath of allegiance. On refusal they were denied the right

¹ *Province Laws*, 1776-77, ch. 48, 648.

² *Ib.*, 1776-77, ch. 45, 641.

³ *Ib.*, 1775-76, ch. 21, 479.

⁴ *Ib.*, 1777-78, ch. 18, 770.

to hold their offices longer, and if an attorney, he could practice in the courts no more. If one furnished aid,¹ comfort or intelligence to the enemy, he was at once disarmed and disqualified from holding office afterwards. Where one had absented himself for three months or joined the enemy, on notice from the selectmen or Committee of Correspondence, the Judge of Probate could² order his estate seized and inventory thereof made. The agent was to pay the debts of the absentee and turn the balance into the State Treasury. The Superior Court could order the real estate sold. If the family of the absentee remained on the estate, the Court could make an allowance out of the proceeds for their support. Where the absentee had conveyed his estate before his departure, such deeds were pronounced null and void. And finally it was enacted that,³ when anyone had levied war on the colonies, or conspired so to do, or had fled to the British lines, or had abandoned his home and joined General Gage in Boston while he was in possession of the place, he was adjudged to have forfeited his allegiance, and all his goods and estate were declared escheated to the State. The Attorney General was to report the names of all such and to order their property seized.

These laws fairly reflect the public opinion of the period and were the embodiment of the people's will. They express better than any other words can do the intensity of the political feeling and the grim resolution of the people to prevail at any cost in the battle joined. Under them free speech was denied, the right of suffrage taken away from everyone who refused to declare for the colonies. Attorneys were debarred from practice, ministers and teachers were driven from their desks and every citizen was turned into a spy and informer. The boycott was commended and a system of espionage, the most searching and humiliating, was legalized and established over every word said or act done by the people in every part of the Commonwealth. Seldom has a more drastic code of legislation ever been enacted in a civilized State; and it was faithfully enforced. The people demanded it and the public officials, even if otherwise inclined, did not dare to

¹ *Province Laws*, 1775-76, ch. 21, 483.

² *Ib.*, 1776-77, ch. 38, 629.

³ *Ib.*, 1778-79, ch. 49, 968.

refuse. A few examples will show their oppressive character in practical operation.

Early in the war the Committee of Correspondence for Northborough resolved that Thomas Billings, Silvanus Billings, John Taylor and John and James Eager were unfriendly to the colonies and had been holding private meetings. They were ordered to be confined to the limits of their respective farms and not to depart therefrom except to attend church or a funeral.¹ The case of Thomas Billings² illustrates the severity of the people's dealings with Tories. He was crippled so that he could not dress or undress himself, having a dislocated shoulder, and besides was affected with rheumatism and asthma. He was charged with being inimical to his country, was arrested, brought before a magistrate, tried and convicted by a jury and sent to the Board of War, which ordered him imprisoned. His physician protested that his physical condition was such that he ought not to be sent to prison, but without avail. Billings repeatedly petitioned for release, but the Board turned a deaf ear to his prayers.

Jonathan Danforth, of Hardwick, had been arrested in 1775 and thrust into jail and his estate sequestered. On December 7, 1776, he petitioned the Council to be admitted to bail.³ He alleged that in the previous July he had gone to North Yarmouth, Maine, to work and so continued until the first of the following November, when he returned to Hardwick, bringing with him his proper credentials that during said time he had behaved well; that he had been charged with being in the British army, which he vigorously denied, and asked for bail. A committee was appointed to investigate these claims. In their report the action of the Council in arresting him was fully approved, and they charged him with having refused to pay money to the State Treasurer as required by law, with lending the town's money out to other parties and, after being published as a public enemy with having broken his confinement and gone to New York to confer with the enemy. He was also charged with several other disloyal acts. His prayer to be admitted to bail was denied.

Benjamin Hickox, of New Braintree, was indicted for en-

¹ *Massachusetts Spy*, July 17, 1776.

² *Mass. Archives*, CLIV. 177.

³ *Ib.*, CLXXXI. 362-373.

listing into the British army in New York.¹ He pleaded guilty and was sentenced to sit one hour on the gallows with a rope around his neck and recognize in the sum of £100 for seven years.

Gentlemen of the cloth received no favors. Rev. Aaron Whitney, of Princeton, prayed diligently for King George for eight years. In 1774 his flock voted neither to bargain with him nor hear him preach, and he was compelled to withdraw from the pulpit. Similar treatment was dealt out to Rev. Ebenezer Morse, of Boylston, then a part of Shrewsbury. Rev. Eli Forbes, of Brookfield, was driven from his church, and Rev. Thomas Goss, of Bolton, had a long quarrel with his people over his political views, though in his case the trouble was complicated with other questions.

A poet of Petersham thus expresses his opinion of local Tories in the *Massachusetts Spy*:

With minds eclipsed and eke depraved,
As meek as any lamb,
The wretches who would be enslaved
That live in Petersham,
For you, ye worthless Tory band,
Who would not lawless power withstand,
The scum and scandal of the land,
Be endless plagues and fetters.
Ye want abilities and brains,
Though headstrong as a ram,
And seem to mourn the want of chains
Ye tools of Petersham;
For slaves like you the rod of power
Is pickling for some future hour,
The taste will prove austere and sour
E'en to the wretch that flatters.

Thus the patriots made Tory life miserable. Under the forms of law the committees exercised inquisitorial powers over the conduct of every citizen. If suspicions of loyalist sympathies were held against anyone, regardless of his character or professional position, he was promptly brought before the magistrate, always a staunch patriot, and examined. He was generally convicted and either sent to the Board of War for transportation, or confined to the limits of his farm, boy-

¹ *Records Supreme Judicial Court*, 1783, 83.

cotted and watched, treated as a public enemy and regarded with contempt. Sometimes the patriots took the case into their own hands and administered to the victim a coat of tar and feathers, as they several times did to Joseph Wilder, of Ashburnham.

Another method of dealing with British sympathizers was by prosecution in the Superior Court of Judicature. In 1780 Ezra Houghton, of Lancaster, was indicted for using the following language:¹

"I have sworn to be faithful to King George, and there is nothing but I will do to serve him. It would be a capital stroke if we could destroy the currency. I am determined to do all in my power to do it!" On being asked if he justified the making and passing of counterfeit money, he replied, "No, where it is done on a selfish principle to build up, but when it is done on the more noble principle, with a view to bring the war to an end, and to prevent the effusion of human blood, I do not view it so bad; that the money that was passing was not made by any authority; that one person had as good right to make money as another. We are all as it were a wheel. Your spoke in the wheel is up now, but it will soon be down."

He was found guilty of using the foregoing language, fined £50, and ordered to recognize for his good behavior in the sum of £6000.

At the same term of Court,² Dr. Ephraim Whitney, of Princeton, was charged by the Grand Jury with saying, "I do not care anything about your law. Your law is Treason and your Government is Treason." He was also charged with refusing to pay his assessment for not serving in the army, and saying, "I will go to jail. I am not going to pay money to support a rebellion." He, too, was found guilty and was sentenced to pay a fine of £40 and costs.

To cite one more case,³ Oliver Witt, of Paxton, was indicted for saying, "It is against my principles to fight. It is very reasonable to accept these offers [by King and Parliament] of pardon. That if you would not go into the army any more, you might be pardoned. That he had a pardon in his desk. That the Congress were designing men and contrived to keep

¹ *Records Superior Court Judicature*, 1778-80, 225.

² *Records Supreme Judicial Court*, 1783, 85.

³ *Ib.*, 1780.

the war along to maintain themselves. That England had offered as reasonable terms as we could desire and we had better accept them. That he always expressed pleasure when the enemy gained a victory, and said that England would have the upper hand in a year and we had better not hold our Independency." The indictment also charged that "he endeavored to prevent the Continental Army being raised, and procured some persons not to enlist into the Army." He also was convicted, fined £40 and costs, and was ordered to recognize with sureties in the sum of £100. Eight others¹ were indicted, tried and convicted for the same offence in the Court of General Sessions for Worcester County and suffered heavy fines.

In 1781 Witt was again arraigned on the charge of circulating counterfeit money, put on trial, but was acquitted.

The language above quoted from these indictments is a fair sample of the Tory talk of the day. The colonies were contending against desperate odds, and the action indicated shows how keenly they realized what would ensue to them in case of defeat. The aim was to suppress relentlessly all forms of loyalist opposition by every means possible, and to create a reign of terror for all those who did not support the colonial side. The patriots fired bullets through the Tories' windows, tarred and feathered the offensive friends of King George, burned royalist literature at the stake and either barred the church doors or nailed up the pulpits of the Tory preachers and refused to listen to them.

The Confiscation and Banishment Act was passed April 30, 1779. It names 309 persons who by the statute were banished from the State and their property declared forfeited to the Commonwealth. Of this 309, thirty-one were from Worcester County. Besides this number, Timothy Ruggles and Thomas Oliver had already been proscribed by a special enactment, and Joseph Moore and Solomon Houghton, of Lancaster, were subsequently added. Of these, six each were from Worcester and Hardwick, four from Rutland, five from Lancaster, three each from Shrewsbury and Northborough, two each from Princeton and Petersham, and one each from

¹ *Records Court of General Sessions for Worcester County*, IV. 295, 394, 403, 415, 427, 465, 439, 540.

Leominster and Oakham. Of the number, seven are described as yeomen, two as blacksmiths and three as traders. The rest are "gentlemen" and attorneys. Thirty-five estates were sequestered.¹ As a class, the lawyers were the most loyal of all. Of the ten in practice in Worcester County at the beginning of the conflict, nine took the English side. The one exception was John Sprague, of Lancaster. Undoubtedly his sympathies were with the mother country at the outset, and early in 1775 he went to Boston to consult with friends as to his future course. There he met Colonel Ward, of Lancaster, an intimate friend and strong patriot, who advised him to go straight home and stay there. Sprague wisely did so and was not molested, but he was regarded with suspicion, and it was some years before his townsmen would trust him with any local office.

The estates so confiscated netted a comparatively small amount to the State. The assets of the banished were largely in real estate; they were heavily in debt, and after the debts were paid and allowances made to the families who still remained in the State, not much was left. The following is the return of the estates seized and sold in Worcester County under the statute:²

Abel Willard's	estate netted the State £1238 2s.					
Thomas Mullin's	"	"	"	"	15 15	3d.
John Bowen's	"	"	"	"	258 14	8
Michael Martin's	"	"	"	"	233 9	7
Thomas Bennett's	"	"	"	"	329 7	2
Adam Walker's	"	"	"	"	156 16	10
James Putnam's	"	"	"	"	3945 5	6
Daniel Murray's	"	"	"	"	1070 10	6
James Craige's	"	"	"	"	165 17	11
John and James Eager's	"	"	"	"	394 2	2
Theophilus Leslie's	"	"	"	"	225 13	6
Abijah Willard's	"	"	"	"	74 4	6
Making a total of £8108, 3s. 7d.						

The favorite method of Tory attack was the manufacturing and circulating of counterfeit State and Continental bills. It was an insidious and deadly weapon to use, and the loyalists

¹ *Mass. Archives*, CLIII. 330.

² *Ib.*, CLIV. 324.

employed it just as far as they dared. There had always been statutes against circulating counterfeit money, but in 1777 the State strengthened the law and increased the penalties. The offence of counterfeiting was made punishable by death; and for passing the spurious paper the prisoner was to be set in the market place an hour, usually it was on the gallows with a rope around his neck, to have one of his ears cut off, the thumb of his right hand cut off at the root of the nail; stripes not exceeding forty could be inflicted; he was liable also to a heavy fine; to treble the amount of the counterfeits he had circulated to the party defrauded, and further could be imprisoned not more than six months without bail. The informer was entitled to a reward of £50.

Under this statute the criminal courts of Worcester County did a large business for several years, and trials under it occupied the chief part of their criminal sessions. In some cases very heavy penalties were imposed. Ezra Houghton, of Lancaster,¹ in 1777 was indicted for passing upon William Whitney a false and fraudulent bill of credit, of the value of 7s. 10d., and money of the United States to the value of 4s. He was found guilty and sentenced to pay a fine of £4000. Three years later he was tried and convicted of the same offence, was sentenced to pay a fine of £200 and costs, and triple damages to the one defrauded.

Jotham Bush,² of Shrewsbury, was condemned to pay a fine of £20, to be set on the gallows for one hour with a rope around his neck, to pay treble damages and costs to the party he had defrauded and to suffer three months' imprisonment. The *Spy* of November 27, 1777, says that "yesterday Jotham Bush sat on the gallows for one hour for passing counterfeit money." He was not heard from in Shrewsbury again. He was sent to the Board of War in Boston, which confined him on a ship in the harbor. In the following January, 1778, he petitioned the Assembly, praying that, being seized with smallpox, he be immediately removed on shore, and requesting that his son be allowed to go on shore to attend him. This seems to sustain the tradition which prevails among his descendants that he died of smallpox in Boston and was buried in the old Granary Burying Ground. His sons,

¹ *Records Superior Court Judicature*, 1778-80, 171.

² *Ib.*

Jotham, Jr., and John, were subsequently convicted of passing counterfeit money, and his son David had his estate confiscated. Altogether the Bush family experienced the full weight of colonial wrath.

The only physician, besides Dr. Ephraim Whitney before named, convicted under this statute was Dr. Abraham Haskell,¹ of Lunenburg, who was arraigned for counterfeiting and also for passing counterfeit money. He was found guilty of the second, but acquitted on the first offence. On the charge of circulating the "queer" he was sentenced to pay a fine of £30, to sit one hour on the gallows with a rope around his neck, to suffer five months' imprisonment and to pay £26 to the one he had defrauded.

Samuel Burnham,² of Bolton, was sentenced to stand one hour in the pillory, to pay fines to the amount of £238 and to be whipped forty stripes. There were two other indictments against him for the same offence, on one of which he was fined £90. In the case of many of the convicts whipping was a part of the penalty imposed.

James Jewell,³ of Sterling, was sentenced to be set in the pillory one hour, whipped twenty stripes on the bare back and to have the under part of his right ear cut off, and also to pay costs. These are fair illustrations of the penalties imposed. Altogether, there were thirty-nine convictions of the crime in Worcester County. The courts were organized to convict and did so in nearly every case. Seven of the offenders were from Shrewsbury, more than three times as many as from any other town. This is explained by the fact that Jotham Bush's hotel was a station on the Tory route from Londonderry, New Hampshire, to New York, over which the loyalists travelled to British headquarters to get their supplies of counterfeiting tools. It was a sort of distributing centre, and Bush was an active agent in the business.

It was, however, the Committee of Safety and Correspondence, organized in nearly every town, that told heaviest upon the Tory. Edward Clark, of Rutland, was convicted of selling tea and was immediately voted an enemy of American liberty. For a similar offence the people of Lancaster were warned to

¹ *Records Superior Court Judicature*, 15.

² *Ib.*, 78.

³ *Records Superior Judicial Court*, 1785.

have nothing to do with Solomon Houghton, except in acts of common humanity. In Barre, John Caldwell and John Black, for getting a town meeting called to consider Lord Howe's offer of Conciliation, "to the great grief of the people," were held up to view as public enemies, and it was recommended that they be disqualified from holding office. Out of many, these are typical incidents which show the thoroughness with which the laws were enforced.

Later in the war the Tories employed still another method of attack, namely, resistance to the collection of taxes. In 1780 and 1781 the currency of both State and nation had become practically worthless. Assessments were heavy and the people had become impoverished by the war. It is not surprising, in view of the Tory attitude, that the loyalists should bitterly oppose the collection of taxes, assessed illegally, as they claimed, to continue a struggle to which they were opposed. There were riotous outbreaks in several towns, in Petersham, Paxton, Sturbridge, Douglas and Dudley. The authorities suppressed these riots with a vigorous hand and brought the participants to the bar of justice. In the indictments the defendants were charged with being "seditious and turbulent persons, hostile to the United States of America and the government, opposed to the independency of the United States and to the measures taken by Congress for the independency of the United States, also for preventing the collection of taxes, and stirring up disaffection and riotously preventing the execution of the law." In a single indictment found at the April term, 1783, and tried in the following September, eighty citizens of Douglas and towns in the vicinity were presented by the Grand Jury for the above offences. At the same term fifteen, and at a former term twenty-three, from Dudley were also indicted, seven from Petersham, twelve from Sturbridge and several from Paxton.¹ Those found guilty were fined in sums varying from thirty shillings to eight pounds each.

The procedure of the Tories in these riots was much the same in all cases. Where the collector had advertised a sale, it was their habit to send notices to all their friends in the neighboring towns and adjoining State to assemble at the auction, and there, when the sale was called, create a disturbance, rescue

¹ *Records Supreme Judicial Court, 1783, 212.*

the property and drive away the auctioneer and collector. Altogether one hundred and forty-three were indicted for these offences. A large majority of the defendants either pleaded guilty or were tried and convicted.

No trace has been found of any secret organization of Tory sympathizers, and to what extent they had passwords or secret signs of recognition is not known; but they often held clandestine meetings for consultation and to plan methods of obstruction and hindrance to the colonial cause. The patriots were quick to break up these assemblies, and when any such were suspected, the participants were discovered and brought before the committee and dealt with. The penalty, in addition to holding them up to contempt as public enemies and commanding the people to have no dealings or associations with them, usually was to forbid more than two of them associating together, and to limit their movements to the farm they occupied, except for the purpose of attending church or funerals. Some of them did adopt secret signs or marks of recognition, placed usually in a conspicuous place upon their houses; for they confidently awaited the day when their cause would triumph, and by these signs their persons and property would be spared from the violence and general destruction which they believed would certainly follow.

The Toryism of Worcester County was largely in spots. One centre of influence was Lancaster, the oldest and then one of the largest and richest towns in the country. Five estates were confiscated. Several persons were prosecuted for passing counterfeit money, and others fell under the inquisition of the Committee of Safety. Mr. Nourse names thirteen who received official attention for Tory sympathies. Hardwick was another Tory centre. Here lived Colonel Ruggles, who himself and all his family clung to the English side. There were, besides, six others who fell victims of the people's wrath. In Worcester the Chandler family¹ and their kinsmen, the Paines, were Tories. In all, fifteen were publicly recognized and dealt with as loyalists. Rutland was the home of Colonel John Murray, and it was also the home of six or eight loyalists who received official attention. Besides these places were the towns of Northborough and Shrewsbury, each of which had a

¹ See Davis, *The Confiscation of John Chandler's Estate*.

number of the same complexion. Some of the towns did not have any, at least existing records do not so show, while most of them had from one to thirteen each. In all, there were about two hundred and fifty Tories in Worcester County who were subjects of official action. To sum up, thirty-one were banished by the Act of 1779, two by a previous act and two afterwards. Thirty-five estates were confiscated, thirty-nine were prosecuted for passing counterfeit money, besides several more who were arrested for the same offence and thrown into jail but not tried. Eleven were convicted for using treasonable language and heavily fined, and many more — there is no complete record of their names or number — were convicted of disloyalty, in addition to those riotously resisting the execution of the laws — not a very great number out of a population of thirty thousand. But this does not show the real extent of British sympathy. Unfortunately, the records of the State under the Test Act were not preserved. In New Hampshire, however, which contained as few Tories in ratio to the population as any State of the thirteen, the name of every one who signed the Test, and of every man who refused, is preserved. Eight thousand five hundred and sixty-seven accepted the Test Act and seven hundred and eight-nine, or almost ten per cent, refused to sign. It is entirely safe to say that ten per cent of the county population openly or secretly hoped for the final triumph of King George III, and would have been found active on his side had the circumstances been favorable for positive action. But the patriot party had possession of every office, state and local, in the Commonwealth; and the timid, the indifferent, the time-server and the crowd which always joins the strongest side, but whose secret sympathies are with the other, did not dare to whisper their real preference for the English. It is well known that the British generals counted very largely on Tory aid to their armies in the different campaigns, which in the New England states did not materialize. General Burgoyne especially thought that the loyalists would flock to his camps as soon as he crossed the border, and he depended strongly on their assistance for the success of his invasion. It is needless to say that he was grievously disappointed. The patriots of the New England States had so overcome and crushed the loyalist element within

their borders that it was unable to render him any effective assistance.

Some of the loyalists were among the ablest and foremost men of the county at the outbreak of the war. Notable among them was Colonel John Murray. Another prominent man was James Putnam, of Worcester. He was born in Danvers in 1725, graduated at Harvard in 1746 and opened a law office in Worcester in 1749. He speedily made his way to the head of the bar, and was appointed Attorney General of the Province in 1773. His biographer says of him that he "was the best lawyer in America." John Adams studied law in his office. He was one of the first to cast in his lot with the Crown, and his estates were confiscated. Afterwards he was a judge of the Supreme Court of New Brunswick and died in 1790. He never saw Worcester after his flight in 1775.

But the most prominent Tory of all was Colonel Timothy Ruggles, perhaps the ablest man in the county. He was born in Rochester, Massachusetts, in 1711, and graduated at Harvard in 1732. He kept tavern, tended bar and was in the livery stable business in his earlier life. Going to Hardwick in 1753, he opened a law office and rapidly won high place. He was a keen wit, and his manners and speech were blunt and profane.¹ In the French and Indian war he commanded a regiment, and in the battle near Lake George, in which the French commander, Baron Dieskau, was killed, he was second in command under General Johnson. When the battle was over he told his commander, "General, I hope the damnable blunders you have made this day may be sanctified to your spiritual and everlasting good." In days prior to the war he was the leader of the Tory party in the legislature, as Otis was of the patriots. He presided, in 1765, over a convention of delegates from eight States to consider the grievances imposed by Parliament, but refused to assent to the action of the Assembly and was severely censured by it. Appointed Chief Justice of the Court of Common Pleas in 1773 and chosen a Mandamus Councillor in 1774, he adhered to the Crown and went to the British army, where he was active through the war recruiting for the army and organizing the Tories into regiments. The angry colonists confiscated his estates. He

¹ He is satirized in Mrs. Warren's *The Group* as Brigadier Hateall.

went to Nova Scotia at the end of the struggle and died in Halifax in 1798.

One of the saddest tragedies in the history of Worcester County was connected with his family. The three sons followed the father on to the English side and were proscribed and banished. His daughter, Bathsheba, married Joshua Spooner, a man considerably older than herself and not of attractive personality. She was of remarkable personal beauty, educated in the best schools of the time, but haughty in manner and of an imperious and demanding temper. Tiring of her husband, she plotted his murder and engaged three men to do the deed. All four of them were arrested, tried and convicted of the crime and sentenced to death. She was in a delicate condition, but said nothing about it until after she was sentenced, when she demanded a trial to have the fact determined. A jury of midwives was summoned, which decided against her claim. On the morning of her execution, just before she left her cell, she was baptized and professed belief in her Saviour. As she stood upon the platform awaiting her turn, she said to the sheriff, "My dear sir, I am ready; in a little time I will be in bliss, and but few years must elapse when I hope I shall see you and my other friends again." She was indifferent to her fate, made no request for life and constantly refused to beg for mercy; she acknowledged her sentence was just when standing on the gallows. After her death it was found that the claim as to her condition was true. It was July 2, 1778, that she went to her doom, amid a terrific storm of rain and lightning.¹ The circumstances of her execution sent a thrill of horror through the community, and she was the last woman ever executed for murder in Worcester County.

There is much to be said in criticism of the treatment of the loyalists by the colonies. To the acts of personal violence and the destruction of property there is no defence for the patriot party. But in confiscating the property of Tories who fled to the enemy, in the banishment of their leaders, in the suppression of treasonable talk, in the rigid surveillance of all suspected of disloyalty and in curbing their movements, the people were justified. It was a desperate struggle, and up to the capture of Burgoyne, at least, the chances of the final

¹ See *Proceedings of the American Antiquarian Society*, v. 430.

issue were four to one in favor of Great Britain. It is as legitimate to cripple and destroy the domestic enemy's power and resources as to fight the foe on the field of battle. All countries have done it in time of war; we did it, though less generally and effectively, in our Civil War. It must be remembered, too, that the Tories were equally vindictive and cruel, and had they possessed the power or had they finally prevailed, they would have done the same. A perusal of the literature of this phase of the Revolution makes that clear beyond a doubt. Of those who fled or were banished, very few ever returned. The families of some of them remained at home, and others, after the death of the father or husband, came back and lived and died in their native town. The story of their hardships and sufferings in exile is one of the most pathetic episodes in American history, but neither time nor space permits their recital here.

LETTERS OF WILLIAM PYNCHON.¹

The first entry in the *Colonial Records* of Connecticut, April 26, 1636, concerned the trading of a gun with the Indians for corn, a transaction against the interest of the English settlers on the Connecticut River, but indicating in a measure the importance of corn to the new communities in that region. Land had been set apart to the Indians, and they agreed to pay an annual tribute to the English in corn. That grain supplied the local currency and was sent to Boston and the Dutch settlement at New Amsterdam, there to be exchanged for supplies or to be sold for cash or wampum. The economic life of the Connecticut River settlements centred on corn, and the supply in the first years being insufficient, purchases were made of the neighboring Indians. That this trade might not suffer by the misdeeds of irresponsible traders, who would rather antagonize the interests of both settlers and natives, it was early regulated. At a court held at Hartford, February 9, 1637-38, the following order was passed:

Whereas vppon serious Consideraçon wee conceiue that the plantaçons in this River wilbe in some want of Indian Corne, And on the same Consideraçon wee conceiue if every man may be at liberty

¹ A note by the Editor. See also Mason, *Springfield*.

to trucke with the Indians vppon the River where the supply of Corne in all likeliwood is to bee had to furnish our necessities, the market of Corne among the Indians may be greatly advanced to the preiudice of these plantaçons, wee therefore thinke meete and doe soe order that noe man in this River nor Agawam [Springfield] shall goe vpp River amonge the Indians or at home at theire houses to trade for Corne or make any Contract or bargaine amonge them for corne either privately or publiquely vppon the paine of 5 s. for every bushell that hee or they shall soe trade or contract for; this order to endure vntill the next Generall Courte and vntill the Courte take other order to the contrary, and at the saide generall Courte there wilbe a setled order in the thing.¹

When this order was taken only six members of the Court were present; but one month later, March 8, 1637-38, at a better attended Court, full regulations were framed and the administration placed in the hands of William Pynchon, a member of the Court. He contracted to deliver at Hartford at least five hundred bushels of good merchantable corn at five shillings a bushel, and might charge 5s. 2d. a bushel for whatever additional quantity be returned. The restraint on going up the river to trade with the Indians was continued, but any corn brought down by the Indians might be sold at four shillings a bushel. In addition the Court imposed the following conditions:

In case of necessity, any family or families doe complaine of present necessities they are to repaire to 3 magistrates which may advise them for the supply, although it be to the dispensing with this order; provided alsoe that if the said Mr. Pincheon bee inforced to raise the price with the Indians of sixe sixes of Wampum a pecke then the plantaçons are to increase the pay of 5 s, per bushell, if he can abate any thing hee will sett of soe much of 5 s per bushell. The payment to be made in wampom at 3 a penny or marchantable beaver at x s. pounce.²

That the trade required regulation and that authority was given at this same Court to trade in corn with the Narragansett Indians,³ the profits to belong to the "public," may be interpreted as good evidence that the grain raised in 1637 had not been sufficient for the immediate needs of the settlers. The

¹ *Conn. Col. Rec.*, I. 11.

² *Ib.*, I. 13.

³ *Ib.*, I. 14.

loose traders had bought corn on speculation and put up the price by their bargaining with the Indians, and the corn on the River did not meet the demand. The recent death of John Oldham¹ had removed one whose irregular dealings with Whites and Indians and whose greed for gain had been shown on every occasion; but the lessons to be derived from the careers of such unscrupulous traders had thoroughly been learned, and the regulation was justified. In this the River settlements only followed the example of Plymouth and Massachusetts Bay, where the trade both in corn and with the Indians had been placed under restraint for the good of the commonweal, to assure a supply for the settlements and to protect the Indians from fraud.

The arrangement actually made did not at first work smoothly. Pynchon seems to have doubts of his being able to carry out his part of the contract, and the Court authorized Roger Ludlow and Captain John Mason "taking likewise such with them as shalbe meete, shall trade [in corn] to supply their owne necessities and the necessities of some other that are in want."² The time at which this concession was made is not given, and no conjecture is possible. Then, too, the Indians did not trust the English so far as to trade freely with them. Perhaps the natives, confused by the presence of the newcomers and hardly knowing what was really expected of them, planted no more than for their own consumption. They had bargained away their best lands, and, practically on reservations set apart for their use, were expected to contribute to the general needs. The Warranocke Indians, for example, asserted that they were afraid of the English. The Court sent to know why they had made this assertion, and "if they will not come to vs willingly then to compell them to come by violence, and they may leaue 2 of the English as pledges in the meane time and to trade with them for Corne if they can."³ Captain Mason headed this mission which has all the appearance of a threat, intended to dispose the Indians to yield on every point, and trade away their corn whether willing and able, or not.

This was in April, 1638, and some time must elapse before

¹ See Bradford, *History of Plymouth Plantation*.

² *Conn. Col. Rec.*, I. 16.

³ *Ib.*, I. 17.

the new harvest. Winthrop noted a severe winter and a late spring, and added "the spring was so cold, that men were forced to plant their corn two or three times, for it rotted in the ground." The fishing stations on the coast sent to the Bay for supplies, and at Plymouth corn "wente at a round rate, viz. 6 s. a bushell."¹ It would thus be seen that Pynchon had made a bad bargain and the course of the market tended to his disadvantage. The Court offered some relief, by raising the price of corn to "5 s. 6 d. in money, in wampum att 3 a penny, 6 s. per bushell, or if in beaver according to the order att 9 s. per pounce, yett this is not any way to infringe the bargaine formerly made with Mr. Pincheon for soe much Corne as he brings in." Receivers of corn were appointed in each town, who should hold the grain till the needy people would pay the official price.²

Events followed one another in such rapid succession that it is difficult to place them in their proper sequence, or to measure the influence of each incident. The mission was sent to the Warranocke Indians to "settle a Trade between vs and them aboute Corne," Mason, a soldier, in command. Already Pynchon had fallen under suspicion of undue practices; "for that as was conceiued and vppon prooffe appeared he was not soe carefull to promote the publicque good in the trade of Corne as he was bound to doe." This agent, exercising his function under a monopoly created by the state, was fined forty bushells of corn, or nearly one twelfth of the more certain part of his trade — the five hundred bushells, assured of a market.³ Here the record ends, and the letters and papers now printed for the first time give Pynchon's side of the controversy with reasonable though not satisfying fullness. They explain the operation of the endeavor to regulate the trade in corn, and supplement the colonial records of Connecticut where they are defective.⁴

TO JOHN WINTHROP, JR.

June 2, 1636.

MR. WINTHROP our deere love and affection remembred with thanks for the care to send away my goodes which I have Recd and also

¹ Winthrop, *History*, I. 265; Bradford, II. 269.

² *Conn. Col. Rec.*, I. 18.

³ *Ib.*, I. 19.

⁴ These letters are in 81, D; 71 E; and 1 W., 114.

paid all the freight: but 3*li* doth still remaine dew to you. I am now preparing to goe to the Bay and have settled vppon a plantation at Agawam: and cannot [*torn*] Towne without both ste [] for the best ground at Agawa[m is so] incombred with Indians that I shall loose halfe the benifit yearely: and am compelled to plant on the opposite side to avoid trespassing thereon: so when I see you I shall talke more.

I Recd. your letter: and think it a pore shift for the Indians of long Iland to lay all the fault vppon a Pequot sachem: so
blesse you, your most loving Friend

W. PYNCHON.

I have no good pen.

I Recd the wampum you sent.

Addressed: To the Right Worshipfull Mr. John Winthrop at the Rivers Mouth.

EDWARD HOPKINS TO WILLIAM PYNCHON.

HARTFORD the 16th of Janu. 1638-39.

SIR, — With remembrance of my best Love and respectes I kindly salute you, etc. I receaved yours per Goodman Lewis, with the 5 *lb.* you sent by him onely one hollands dollar which you Count att 5*s.* is nott worth nor will passe in payment att above 4*s.* 6*d.* att most. I can say little to the Reconing with Mr. Whitney, he onely writt me to receave soe much money of you, having taken soe much up of mine in the Bay. I am perswaded att his returne he will give you a rationall answere for what he doth. I have transcribed out the *order* which was made in Court for your payment of the 40*lb.* I thought to have transcribed it againe, butt tyme will nott permit, and I hope you will read it as it is. I was ordered by the Court to write to you about the five that is due fròm you and for such moneys as are coming to the Cuntrey for such Bevar as you have traded according to the order made with your owne consent. You may please by the next oppertunity to give me an answere, for it will be expected from me. I pray you also send me word how you will deliver me 100 Bushells of good Corne in Aprill here at Harford. If you or any of your plantacon will deale vppon indifferent tearmes I shall give ready mony for it. I shall want some for my owne occations. I doubt not but you heare of the death of Mr. Harlackenden¹ and others in the Bay. I shall not add more at present but the remembrance of my best regard and love to

¹ Roger Harlakenden, born in Earle's Colne, in Essex, October 1, 1611, came to New England in the *Defence*, 1635, with wife Elizabeth, daughter of Godfrey Bosseville, of York. He died of the smallpox November 17, 1638.

Mr. Moxon¹ and Mr. Smith,² but take leave and rest yours in what I may

EDWA. HOPKINS.

Addressed: To the worshipful his very loveing friend Mr. Wm. Pincheon at his house att Aguam d'ld.

WILLIAM PYNCHON TO [JOHN HAYNES].

AGAAM this 2d May, 1639.

MR. GOVERNOR my respective love remembred to you and to Mr. Wells and to the rest of the magistrates with you. I recd a letter from you by Mr. Moxon the 20 April, 1639, which is by order of Court: But I perceive it is not intended for an answer to my apologie to the Elders of Windsor.³ But only you tak up some things for a case that are so darke that you can hardly make true English of: and you rank them into 7 or 8 particulars: But the truth is I did look for a convincing answer in the maine grounds of the Courtes proceedings wherein I have wronged the Country so as may stand with the censure of a court of equity:

But I doe ingeniously confesse I can conceive no such conviction in any of the particulars: But if it please the Court to take into consideration this defense of my apologie following.

1. You say I have charged myself short of that which the Court charged me with all. But I professe to the vttermost of my memory and of all the helpes I could get from Mr. Moxon or my sonn: I have not favored myself in the full substance of any thinge: but if I have I shall be glad to see any materiall addition if the court please to expresse it to the full.

2. To the 2d my consultinge with Mr. Moxon and my sonn about the matter of Corne is not the sole reason I alledg for my selfe. But you may remember to what purpose I alledged my Consulting with them: I was charged in the matter of corne with unfaithfulnesse, self seeking, dishonest dealing: my answer to this was that I did nothing therein but with advise from Mr. Moxon and my sonn: now bring my profe to the matter for which it was intended, and you see how farr it will goe thus. he that counsellis with Mr. Moxon and my son Smyth (for want of better) cannot be presumed in a court of iustice to be vnfaithfull, dishonest, self-seeking in the matter of Corne but rather desyrous as they can

¹ Rev. George Moxon, first minister of Springfield, who followed Pynchon to the Connecticut, and in 1653, to England.

² Henry Smith, who married Ann, daughter of Pynchon. His mother, Frances Sanford, married Pynchon.

³ Perhaps the paper on p. 48, *infra*.

give light to him to goe the best way for the publike. But Mr. Pynchon etc.

3. To the 3d supposed contradiction, viz. that I tould the Indians the Captains¹ price was lesse than mine, and yet hold forth in my apologie that my price was lesse than the Captaines: 1. I grant that there is our appeerance the Captaines price was somewhat lesse than mine as it was held forth among us. 2lly. whereas it was vrged against me by the Court and Mr. Hooker that the Captain traded at an vnderprice therefore I was in my price eather deceitefull or vnfaithfull or both: In my apologie I plead that the Captaines vnderprice was not so much and so great as to prove that which was argued against me: yea in my apologie I plead that it is doubtfull whether the Captaines price in the issue, difference of waight and measure of corne considered, would prove lesse than mine if not more however it appeared to us at first, and if it did prove lesse yet it was uncertain to him, and therefore that difference of price was not a sufficient prooffe of my dishonesty and unfaithfulnesse in my price of corne: and what contradiction is in this manner of pleading?

But you say the Captains price to the plantations was cheaper than mine to my owne house and this you say is a great mistery: but if it be a great mistery to the Contry it is none to me that know the course of trading with the Indians and their fearefull disposition as well as some others in the contry, and the rather because mine eyes have seene their often tremblings about that corne the Captaine bought of them till they had paid it, and mine eares have heard their often relations of their feare of the Captaine, and of the Sachims in the river and that the Captaine would have them take wampum which they would not have taken: and it is not a vsuall way of commerce with the Indians for many more 3. 4 or 5, to goe as it were armed and to make open Declaration of their wates and in the name of all the Sachims in the river and to put wampum vppon them vppon trust: and when much corne went by us they declared their feare and therefore refused to land any with us tho the need was great till they had satisfied the Sachims in the River: and this satisfies me in the vnderstanding of the mistery though I know not how it will satisfie the Country.

THE CORN TRADE.²

G. F. a magistrate is by order of a generall court intrusted to trade corne with the Indians for the Countries need and all others prohibited: within 7 nights after or there about sundry of the

¹ Captain Mason.

² A paper in the writing of William Pynchon.

members of the generall court together with some 3 or 4 others, being no members thereof, in the tyme of the adiournement of the generall court did meete uppon a day that was not appointed by the generall Court: when and where contrary to the Reasons and groundes of the order above mentioned, another deputy is chosen to trade with the Indians for corne in the Countries behalf And is sent out in the name power and authority of a generall court: and all this is don without the knowledge consent or release of the magistrate first ordered by the generall Court.

This 2d deputy thus deputed in his trading of corne with the Indians occasionally meetes with a Sachim (with whom he is desyrous to trade but answers he dares not for feare of the said magistrate first deputed when the 2d deputy comes with the said Sachim thus pretending feare to the house of the said magistrate first deputed and requesting him to take off feares from the said Sachim that he might trade with him whereto the said magistrate answers: I will neather make nor medle.

Now for this last clause of his answer he is complained of by the 2d deputy and is sommoned by a warrant from 2 magistrates to appeare at the next Sessions of the Generall Court: where he is taxed for the said speech as a breach of his oath of magistracy and is fined therefore.

Touchinge the last wordes viz I will neather make nor meddle the said deputy and another with him depose that those wordes were in answer to his request made to the said magistrate viz that he would take away feares from the said Sachim: but the said magistrate and his servant (who was a present witness heering all passages and speeches betwixt the said magistrate and the said deputy) are ready to depose that the said speech was in answer to another request which the said deputy propounded to the magistrate: viz that he would further him in such a particular way of trading corne with the said Sachim: which way of tradinge the magistrate disliked in his iudgment as not conducinge to the Common good.

And further the said magistrate imediately after the deputies cominge to his howse sent for 2 neighbors with whom he desyred to consult what course to take about the said deputies request: which 2 neighbors doe affirme thes 2 thinges. 1. that after their comminge the maine thing therein the said deputy desyred the magistrates furtherance was his helpe to bring the said Sachim to trade corne with him on such and such tearmes without any request at all of taking away feares: 2ly. what arguments or other meanes was thought of by the present company and propounded, if they were iudged by the said company usefull and furthering to the deputy in his design of tradinge, the said magistrate (being best

exercised in the Indian tounge) spake accordingly to the said Sachim in the Indian language: and that enough was said to the said Sachim to take away his feare if any were: and the 2 neighbors conceive that the argument used to the Indian might have bin sufficient to take away his feare, if any were.

ANSWER.

Mr Pynchons answere to the first Article

That he could not trade so vnlesse for some small parcell at that tyme when he wrote that letter.

Which answere we take not sufficient, for that his experience in one day was not sufficient to bottom such a passage from him to the court.

In pursuance of his answere Mr Pynchon affirmed he had power to raise the price of the 500 bushells directly contrary to the words of the order.

Also that he sent but one letter about the price of corne before the captaine came up, while brother Philips undertakes to prove 2 letters sent up.

*¹ To the 2d he answeres Captaine Mason came not up according to the reson rated in the first order.

to the 1. clause. Relation being had to the record its there apparent that Captaine Mason came up by order of Court: here mr Smith was produced and witnessed that he saw amongst the orders and rolles lying upon the table in the generall court an order where in power was given to C. Mason to trade for corne; to the which order were only three hands of Mr Hooker, Mr Stone and Mr Whiting together with the hands of the magistrates and committees of the generall Court.

2. To the last clause, he answeres that he and his servant then present are ready to depose that those words were an answere to other words and a request that mr Pynchon would further him in a particular way of trade with the Sachim which way mr Pynchon disliked as not conducing to the publique good: but that they were not spoken to the former request mr Pynchon sayth he leaves.

Here brother Haukes spake a relation of particulars as he thought, but missed the Circumstances and spake contradictions, yet nothing to the purpose.

2d answer. Mr Pynchon sayth he sent for Mr Moxon and mr Smith to advise about the C. request, and they can witness they heard no speach of the indians feares but that his whole request was to have Mr Pynchons help in the trade to their best apprehensions.

¹ The meaning of the asterisk is not clear. See p. 45, *infra*.

To this our returne was, the C speakes expressly that those words NEITHER MAKE NOR MEDDLE were spoken as soone as mett in mr Pynchons house before they came to the wardhouse or those 2 men came.

Mr Pynchon sayth when the C. was willing to trade in a way mr P. did approve that then he tooke away the indians feares to the best he could, but while the Captaine went his owne way which Mr. Pynchon sayth he was unwilling to meddle or make.

Heere Mr. Moxon and mr Smith testifie the C. expressed himself satisfied though after breakefast he departed in discontent.

to the 3. Article, Mr. P. answereth The Indian from the beginning was unwilling to trade with the Captaine on the Captains terms: to which our returne was that here is oath that he was willing before he came to Mr. Pynchon and also that his comming with the Captaine to get leave assigned his willingnesse to trade with leave.

2d answer to the last clause. That mr Pynchon never used any words to discourage the indian from trading with the Captaine in mr Pynchons any¹ way: but what discourse [or] argument he might take by the measuring of the basket or otherwise I cannot tell. but for the Captains way he answered not.

To the 4th Article mr Pynchon answereth: for his word concerning his man he remembreth no discouragement given by him but he thinketh he might seeme unwilling that his servant should act for that there was some clause in the order respecting tribute and a compelling way of trade which he was ever against.

To the 2d clause. He doth believe they had made promisses of corne to him and that he might speake of such promisses being engaged by the Country to make what provision he could and that his light was for a free trade with them. And others that were sent seemed to go another way, so that his iudgment being against their way he thinketh he did not do amisse.

To the 5 Article, he answereth that it was a great grieffe to him that he could not answere the necessitie of the river being seated so conveniently for it, but it was occasioned hereby that others having after comissions granted he was hindered in the way of trade and thinketh the comission so grannted were a discharg to him in that trust. Yet it was his desire to further the service what he could.

Our retorne is that nothing was done by any by way of power or compulsion the C. used nothing but love nor goodman Stebbins and the others used any thing but love: and that mr Ludlow in his letter before any commissioners came up had satisfied you that no

¹ A word underlined.

hostilitie was intended at this tyme and that the Indian was peremptory not to trade with the Captaine, what fear then of power. And that power seemes used by mr P. who punished him.

* That there was more interim before the Captaine went up appeareth; the conclusion was upon the 4th day and they went forward upon the 5th day, and the provision of necessities required some tyme so that they went not the next day: And when they went they addressed themselves to Messacho first and at Pequannock they traded their wampum away and were forced to come home for supply.

MATTHEW MITCHELL¹ TO WILLIAM PYNCHON.

[1639?]

SIR, — I received your letter by Judah and this yesternight by your men and have spoake to Goo. Hubbert at both times: but I know noe safe meanes of Conveyance of a letter till now, beeing not within when Judah came and went. and I heard of yoo. Cables occasion of coming downe and hoped I might as now I may, write and send by some of your people. Goo. Hubbert is full in his test[i-mony] about raising the tearmes of the Contract hee well remembers even that of raising to 5s or what it was. if the Indians did raise it so much to you hee saith noe body will denie it but the magistrates. all grant that but saith hee they conceive he for his own ends would have had the price raised with the Indians whereas hee having such interest in them might have had so much at ould prise. and Capt. Mason saith hee swore hee thought hee might, and hearin his unfaithfullnes to the Cuntrie in their trust and neede appeared, and mr Hooker said hee could not believe but soe wise a man as mr Pinchon knewe how to procure and had such power with the indians that hee might have performed. els hee would not have promised and ingaged him selfe on this manner doth Gev.

¹ Matthew Mitchell is described by Increase Mather as "one of the old Non-conformist Puritans, who left England and transported himself and Family for *New-England*, purely on the account of Religion, in 1635." He was of Halifax, in Yorkshire, and came to New England in the *James*, of Bristol, with his wife and children, and Rev. Richard Mather, and passed through the tempest which nearly wrecked the vessel. He removed to the Connecticut, and in 1636, joined with Pynchon in the plantation "at and over agaynst Agaam," later Springfield. Four years later he united with others to form a new plantation at Rippowams, afterwards known as Stamford, the cause of his departure probably being his unjust removal by the General Court from the office of recorder (or town clerk) of Wethersfield. *Conn. Col. Rec.*, i. 48. In 1642 he and John Whitmore were admitted members of the General Court of New Haven and "accepted the charge of freemen." *New Haven Col. Rec.*, i. 69; Huntington, *History of Stamford*, 37. He accompanied Rev. Richard Denton to Hempstead, Long Island, but returned to Stamford, where he died in 1645.

reason and so did they you know in the Court. and I believe they will doe soe still: but I as fully beleeeve that in your owne Conscience you are Cleane and that your arguments to an understanding man not preiudiced will Cleare it and you, and that you will not neede to his testimony nor would I advise you to be at so much Charges. nor do I doubt but with the Church of Rocksberie you will easilie come of and if you do the Experience of some saith, your Charges will be but in vaine and long and tedious Travells in your honest cause but in vaine except you could suite other mens apprehensions all will not doe. if you could but have the probation of Rocksberie and mr Moxon and your neighbours satisfied I doe beleeeve it would be your best to make hast into argument that you may [torn] all the ordinances and so lett other mens example shew you what the profitt of [torn] and Chargable debates and delays will bring out, they will begett [torn] and the cause will degenerate and new offences grow and as [torn] end as at first I would be glad if you were settled on the Co[nnecticut torn] was out of England now is good and probable to be true for what wee [torn] now by mr Winthorp Confirmed and he saith he doth beleeeve it it was [brought] by the fishing shippes as afore by the Desire Cutting came in haueing laded in France brought sum newes of it but they bring it full. the partickulers I leave to your men whom I tould as well as I could. if this be soe there will com but some passingers over. and if not, men do not incline northward winters are so Teedious and many places on the coast to fill up and long Iland and Delayware bay intice men thinke of it. I doubt I shall not gett soe much spare time as to see you befoore I goe. if I can I will, for my love would and dutie and your exceeding love to meward hath oblidged me. I do acknowledge my selfe much be houlding to you and know not how to make recompence. you have beene abundant in love. my wife was now ataking those you sent formerly because of the could shee deffered. but now shee may continue a good while in her course of takeing shee findes good by them they worke kindly, and I hope do her much good and shee is very thankfull to you desire if shee had it to show her selfe and my selfe thankfull god may give an opportunitie and meanes together. in the mean time wee are like to rest much behoulding to you. with our love to your selfe and mrs Pinchon kindly remembered and to mr Moxon, mr Smith and their wives and to Sam Hubbert, and so with our dayly well wishes and prayers to god for you wee rest your much indebted and loving servant to his power,

MATH. MITCHELL.

Addressed: To his very loving and much Respected frend Mr. Wm. Pinchon. DD.

STATEMENT.

In the tyme of my tryall I was impleaded for unfaithfull dealing in the trade of corne, and mr Hooker was sent for by the Court to give his iudgment whether I had not broken the oath of a magistrate and he delivered his iudgment peremptorily that I had broken my oath but I being unsatisfied how he could mak his charge good have often caled up pon him to make it good and he hath often promised and yet delayed to doe it to this day: and yet the Elders of winsor Church have wrote to the Elders of Roxbery that mr Hooker hath acquainted them with it and therefore they must have mr Hookers challeng: and I conceive that the Elders of Roxbery will expect that as you have given them intelligence that I am charged by mr Hooker with this foule offence that either you will see mr Hooker mak it good or acquit me of the guilt: for if mr Hooker do not mak it good many wronges will follow. 1. his credit is wronged by vndertaking to mak that good which yet he hath not don in a long distance of tyme. 2ly. I am wronged in my Cause and made a grieved magistrate vniustly. and 3ly the general Court are wronged to ground their censure vppon his iudgment. But I must expect to see this Charge demonstrated by positive prooffe such as may stand with the iust censure of a Court of equity, for certaine punishment must be grounded vppon certaine prooffe, and not vppon surmises or preiudice or the like mistaken groundes, or els it is but a deceiving of the Court in their proceedings which is a dangerous thing to the Court as in the example of the ould and present misguiding the young prophet he trusted to his iudgment and counsell but it cost him dere.

In another thing also I was charged with breach of oath as a magistrate for it was alledged against me (by mr Hooker as well as by others) that I should have bin so ready to further the Indians in transportation of their corne from woronoco that I should have but my Care which I manifested that I did offer to send the best I had and such a one as they like well of at another tyme. but because the Indian refused that and would only have a neighbors cano: I was charged that I ought to have borrowed it. which gapped I also stopped and manifested that I intreated mr Moxon livinge at the next door to borrow it. But the owner refused to lend it because notwithstanding his dayly need of it the Indians would not promise to bring it vp againe till fishing tyme, which was about 6 weekes after: Then I was charged with neglect of my duty and breach of my oath because I did not presse the cano for the Indians vse: A strange reason to prove the breach of my oath: If mag-

istrates in N. E. should *ex officio* practise such a power our mens proprieties, how long would Tyranny be kept out of our habitations: Truly the king might as legally exact a loan *Ex officio* of his subjects by a distresse on mens proprieties (because he pleades as greate necessity) as to presse a Cano without a legall order. The lawes of England count it a tender thing to touch another mans propriety and therefore many have rather chosen to suffer as in a good cause then to yeeld their goods to the king *ex officio*:¹ and to lose the liberty of an English subject in N. E. would bring woefull slavery to our posterity: But while governments are ordered by the lawlesse law of discretion, that is transient in particular mens heades may be of dangerous consequence quickly if Mephibosbeth had but the lawes of an English subiect to defend his right Siba could never have enjoyed $\frac{1}{2}$ his bed. as though I am necessitated to speek much of this for my further clering in the breach of oath yet [illegible] may serve for a gentill caution to those whom it may conscerne.

I thinke it needful to put you in mind of one thing more: when I desire of you the dismission of my cause to the C[hurch] of Roxbury the Elders of that Church did write to the Elders of the Church of Roxbury. you allege this as one R[eason] why you could not dismisse it as mr Hooker.

TO THE CHURCH AT WINDSOR.

[1640.]

REVEREND AND BELOVED: I rec'd your letter: but am necessitated to proceed in my journey this day: for I have appointed with severall Friends to meete them in the Bay this week upon weighty occasions and some heere have waited on me this 5 or 6 dayes to goe with me: and the Reasons which you aledge of the brethrens unwillingness to put it from them seem not to me sufficient. My Cause hath bin agitated in the Court and witnesses produced, and if there be any further testimony magistrates can take their testimony in writing and Elders also so as it will be accepted and I conceive it is usual in such cases I have no witnesses but in writing: neather seemes it faire to me that the greved brethren having delayed me so long should now put me of having so faier an opportunity of issuinge the matter. I know not when nor where to have the like suppose I had given you a meeting now and we could not close to the satisfiing of each other then the greved brethren must

¹ Se Sr John Fortescue in his treatise of Rights. — *Note by Pynchon.*

be necessitated to lay their hands of and to refer it to the Church at Roxbury therefore why not now: and what can they doe more eather then or now but signifie their grievances to the Church whereof I am a member, and seeing you cannot but conceive me sick in the 2 y[ears] delays and my mind stand prest to give satisfaction to the Church at Roxbury, and as you shall advise according to rule to others also: I hope vppon 2d thoughts I shall find you will answer my desyre to the Church of Roxbury this next week. So Jehovah cause his face to shine vppon your counccills. Your ever assured in the L[ord]

WILLIAM PYNCHON.

I have sent this return by a speciall messenger for I may not occasion delay but would give you all tyme that may be against next week.

Addressed: To the Reverend Elders of the Church of Windsor, Mr. John Wareham, pastor or Ephraim Huit Teacher, d[eliver] this.

TO THE REVEREND ELDERS OF ROXBURY CHURCH.

23 March 1640 [41.]

REVEREND AND BELOVED my desyre and endeavor with other godly persons among us hath bin continued longe for Church condition but hither to have bin lett, cherfully but sinfull thinges have bin imputed to me, but I notwithstanding stand to defend my inocency in the thinges whereof I am accused therefore as duty bade me I mak bould to crave your advise and counsell in this case: the maine matter is about faling from the Government of the River to the Bay Jurisdiction: my son Smyth is only calld by the Church to answer in this point, but one of the Elders tould me that this matter did cheifly conserne me, and also that it conscerned Mr. Moxon as much as my sonn, but they would choose to deale with my son in this matter but he was their member and therefore they had more power over him then over me, and in their determination they have concluded against us in generall as you may perceive by the coppie of it: now this is the point of counsell that I request at your hands, whether uppon scanning of all particulars you will iudge me guilty of those sinfull imputations I would walk by consell and by my selfe by your iudgment, for as yet the light of my conscience is much differing from the churches determination, they determine many grosse sinns against us for doing that which we conceive we have don out of consceit of our duty: The particulars now sent by which you may iudge in this

case are these. 1. The Churches determination: 2ly. my sons Replie to the Churches determination. 3ly my sonns letter to Mr wareham a weeke before the determination. 4ly the manner of our ioyning and faling from the River. 5 The coppie of the commission which brother Johnson sent me from mr Nowell: by all those particulars I conceive you will have full light to iudge whether you apprehended me guilty of those sinfull imputations: As for my sonns leaving the Church without leave: (tho it was when the Church was parted half in the River and half in the Bay) that is particular to him. But the point of Councill that I desyre is in the other things wherein I am a sharer. [in that letter¹ we only rite such passages as the Church makes use of to prove our full dismission from the Bay, and we desyre the Court to expound their meaning in those passages, but you may see in my sonns answer to the Churches determination how we understand and expound the meaning of those passages: but we cannot fully conclude that the court will make the same interpretations till we try their exposition. neather can they conclud that their expositions are right till the minde of the Court be further tried.]²

for though I am not yet caled by the Church to answer, yet I expect to be shortly caled and therefore I desyre your counsell beforehand but I would gladly attend the Church in such a way of satisfaction as may be according to justice and truth: and this is my maine scope in desyring your faithfull concill herein and as speedy a return as you can.

A second thing wherein I desyer your advise is touching a letter to the generall court which is sent unsealed on purpose to intreat your advise whether you iudge it every way convenient to be delivered in case there be a generall court at present: or whether your advise is to suppress it for a tyme: I am intreated by the rest to intreat you to weigh circumstances of and mr Moxon hath writ to mr. Mather to helpe with his advise: but I leve that to you and if your advise be to deliver it to the Court then I conceive it meete that after you have given your advise so to doe that some other should take the letter and attend the Court for their answer and I know noe fitter then our brother Johnson: and to him I have writ that in case you advise to deliver it that he should attend the Courtes answer: and in case there be no generall Court till the Election Court then we conceive if your advise be not contrary to acquaint some of the Councill or the magistrates as you shall think fitt if possible you may set (?) any further light thereby to iudge

¹ The letter to the General Court, mentioned below.

² The portion between brackets was struck out.

and advise what may be meete for me to do further in our case and how I may be able to answer the Church when I am caled: I am loth to troble you further and [rest] your brother in Christ []

W. PYNCHON.

LAND PURCHASE.

Thes presentes witnesseth this 20 day of Aprill 1641 a bargain betweene William Pynchon of Springfield on Quinnettecot River on the one party and Nippumsuit of Naunetak in the name and with the consent of other Indians the owners of certaine grounde hereafter named viz. with name and behalf of Mishsqua and her sonn Saccarant and Secausk and Wenepawin all of Woronoco and Misquis the owner of Skep and other grounds adioyning and Jancompawm of Nanotak on the other party witnesseth that the said Nippumsuit with the consent and in the name of the rest for and in consideration of the sume of fiteene fathom of wampam by tale accounted and one yard and three quarters of double shagg bages one how seaven knifes seaven payer of sessars and seaven aules with certaine fish hooks and other smale things given at their request: all thes being in hand paid to the said Nippumsuit in the name of the rest: and for and in consideration of the said goods paid before the subscribing hereof hath barganed sould given and granted and by thes presentes hath fully and cleerely barganed and absolutely granted to the said William his heires and assignes for ever all the groundes meddowes and woodlandes lieng on the East side of Quettcot river from the mouth of Chickoppy River vp to another smale Riveret caled Wollamansak sepe which Riveret runs into Quinnettecot River with the meddow and planting groundes caled Paconemisk and all other meddowes that are wet and hassocky lyeing betweene the said Riveretes. Also all the woodlande lieng about three or fower miles vp Chickuppy River and the meddow there caled skep alias skipnuck, or by what other name or names the said groundes be caled with all the pondes waters swampes or other profite adioyning to all the said premises with all the Ilandes in chickuppy River and the meddow and swampes caled Pissak on the south side of Chickuppy river near the mouth of the River: The said Nippumsuit with the consent of the Rest above named hath absolutely sould to the said William his heires and assignes for ever: to have and to hould the said premises with all and singular their appurtenances free from all incombrances of other Indians: and the said William doth condition that the said Nippumsuit shall have liberty of fishing in Chickuppy at the usuall wares that now are in use: In wittenesse of these pres-

ents the said Nippumsuit with the consent of the Rest hath subscribed his marke the day and yeare first above written being the twenty day of the second month 1641.¹

(Facsimile of signatures on opposite page)

given to Wenepawin at the subscribing one yard and $\frac{1}{2}$ for a coate of broad Bayes: and 1 pair of briechees to Misquis and 6 knives to them all: also I trusted Misquis for a coate which he never paid and he was trusted vppon respect of setting his hand to this writtinge.

May the 24th 1641. When Secousk sett her hand to this writing Mr. Pynchon gave her 12 handes of wampom and a knife.

8t mon: 9 day 1643. When Jancompowin sett his hande to this writtinge in the presence of us and Coe Mr. Pynchon gave him a coate and a knife. He came not to sett his hand to this writtinge till this day. Witnesses

GEO: MOXON.

HENRY SMITH.

JOHN PINCHON.

The woman caled Secousk above said who was the widdow of Kenip after she had 12 handes of wampum and a knife: came againe to Mr. Pynchon the 27 June 1644: desyringe a further reward in respect she said that she had not a full coate as some others had: thereuppon Mr. Pynchon gave her a childe coate of Redd Cotton which came to 8 hande of wampum and a glasse and a knife which came to above 2 hande of wampom more: in the presence of Janandua her present husband: witnesse my hand per me William Pynchon and she was fully satisfied.

Also Nippumsuit had another large coate for his sister that he said had right in the said land which came to 16s.

Also the wampom within named was current money pay at 8s per fathom at the tyme it was paid, per me.

WILLIAM PINCHON.

Know all men that I William Pynchon of Springfield gent doe assigne sett over give and grant all my right in the land within named which I bought of Nippumsuit and divers other Indians 1641: to my son John Pynchon of Springfield gent and to Capt. Henry Smith and to Ensigne Holioak all of Springfield to them and their heires and assignes for ever to be disposed by their discretion for Farmes belonging to Springfield at such rates as in their cous-

¹ The body of the document is in the writing of William Pynchon.

tome they shall iudge to be Reasonable: witnesse my hand and seale this 17th day of April 1651.

WILLIAM PYNCHON. [Seal]

Sealed and delivered and possession given in presence of

THOMAS COOPER

Rec'd in Courte Septr.

HENRY BURT

30 1670. attest

SIMONE BERNARD.

SAM'LL PARTRIGG *Clerk.*

Endorsed: The purchase of the Land of Chickuppy up to Wallamansock scape: and of Skepmuck and the land adjoining, with Father's Deed of Gift of it.

[To EDWARD HOPKINS].

28 December, 1644.

MR. GOVERNOR I have Rec'd your letter and thank you for your loveinge discourse about your purchase of the forte with the appertenances at the Rivers mouth: and it seemes the payment is to be made by an impost vppon corne etc for 10 y[ears] and you think also that we will readily yield to beare our share therein bee it hath bin and may be a great Benifitt to the River and so to us as a part of the River for the charges past while we were of you we paid our part in a large Rate that way: what benefitts it may be to us for tyme to come I do not yet see. I must leave that to be further manifested by the wise disposing providence of god: I suppose you cannot expect us to come in amonge you as ioynt purchasers, neither do I think that you will laie any impost vppon our goodes as beares with you in the charge having no considerable benefit: for if you should it would be the 1st president you know we are vnder the Bay iurisdiction, and it were a point of vnfaithfulnesse in vs to yeeld to such a thing without their advise and consent and indeed if I may speake in the plainesse of my apprehensions I apprehend that the purchase tendes now to expresse their loveinge respectes to Mr. Fenick (whome I consceyve deserves much love) then to their own benifitt for I conceive that the forte will be a very great charge and litle or no benefit to the River in regard of any defence against potent and malignant shippes: for I think no ship is so hardy as to run vppon the danger of such flattes as the Rivers mouth is barred vp with all: tho it may be some friend may attempt to doe such a thing for friends sake, and as for pinaces I thinke that any towne or two in the River is sufficient to resiste the force of two or three pinnaces by taking advantage with one or two drakes if once they dare be so bould as to come up the River neere the place. But yet I that there is good use of the forte for the saftie of the Inhabitantes there in case of Indian warrs or in case of skulkers:

As for newes out of the Bay there is none from England: but the 19 of this month was kept as a day of fasting for England through all these plantations and as soone as that was over both Mr. Fowles¹ ship and Mr. Pilgrim² were to set sayle: in both were many passengers also the Lady Latore had hired Capt. Richardsons ship³ to carry her home and 2 shippes of the Bay went in company laden with a great quantity of victuall commodity and other wares, and yet by report of a m[aste]r of a pinace that came lately from thenc Latore was well victuald before and had made a forte at the mouth of his River and the said master reported (who traded with Dalny⁴) that he thought Dalny was not able to sustain the Charge of those 2 shippes that did attend them for surprisall of the Lady Latore and Capt. Richardson said he feared them not.

Mr. Wilson of Boston was then very sick of a feaver. But my son Davis⁵ was well received and marid about 5 days before the messenger came.

As for a parsell of Corse wampum which you would bye: I had a great parsell of Mr. Williams many years since at 3 a penny: I sould 200 fathom of it to Natano at 5 a penny: and still I have I thinke about 200 fathom left besides a quantity of coarse blue which was had near double the rate of the former I am loath to sell at the rate that wampum is ordinarily sould lest I shall lose half in half by it. I hoping in tyme I shall put it of by litle and litle to Indians at lesse losse, neither can I get any quantity of fine wampum to you.

As for my advise about the wife⁶ my iudgment in phisike is but smale what experience I have I brought with me out of England. I have had no tyme to try any conclusions since I came hither: If it would please god to afford you the advise of such an one better experienced I should be gladd the Case is so intricate. I make no question but Mr Moxon and Gibson mite be ready to do any office of love for her that they can, but if I undertake any by her I can

¹ Probably Thomas Fowle, to whom two small guns were granted by the General Court, November, 1644, "provided hee give security to returne them by midsommer next." *Mass. Col. Rec.*, II. 79.

² Master of the *Gillyflower*. *Mass. Col. Rec.*, II. 83, 84, 90. His controversy with Lady Latour is related in Winthrop, *History*, II. 199.

³ Some merchants of Boston, who had had a ship taken in Wales by the King's party, sought to get compensation by attaching a Dartmouth ship, then in Boston harbor. The master delivered the ship into the hands of the magistrates, pending a decision of the claim, and she was taken by Captain George Richardson, master of a London ship and bearing a commission from the Lord Admiral. See Winthrop, *History*, II. 194.

⁴ On Aulnay see Bradford, *History of Plymouth Plantation*.

⁵ William Davis, of Boston, who married, December 6, 1644, Margaret Pynchon.

⁶ Ann, daughter of — Yale, was insane for a period of fifty years.

direct as much in absence as if I were present with her, if you can prevaile with her to stick close to rules of direction: yet I must tell you that that hot subtell vapor which hath taken possession of her brain is hard to be removed though it may be much helped through gods blessing uppon the event. I wish that she may as much as may be observe a plaine thin and diet: that will make least crudities and so lesse matter for those subtle vapours: let her not use to eate milk except it be turned into thin posset drink and if she will you may soake it with sugar wherein a little saffron and may be mixed viz to every ounce of sugar good 3 grains of saffron made into fine powder and a little scraped : and she may use of this eather in posset drink or in warmed bere: by the use of this and other attenuating drink her body will be brought to a sweating temper which I conceive will be a good help to nature: and a good helpe to the operation of other phisik.

And for phisik I shall cheafly advise to the compleat rest of pills if she will be perswaded to take them often and orderly and lastly gentle nosing in the spring of the yeare and in short tyme will open the brain and give some refreshment provided it be don by gentle means: but nosing powder tobacco and the like are to violent: but if lettuce leaves could be had nothing is so good as that :

As for pills she may begin with them at the begining of March next :

Did I understand that Mrs. Moxen is to lie in at the begining of March.

Mr. SANBORN exhibited some interesting papers of Lord Sheffield and gave a description of them.

Remarks were made during the meeting by Messrs. GREEN, STANWOOD, NORCROSS and DAVIS.

MEMOIR

OF

CHARLES ELIOT NORTON.

BY M. A. DE WOLFE HOWE AND CHARLES FRANCIS ADAMS.

CHARLES ELIOT NORTON was elected a member of the Massachusetts Historical Society, June 14, 1860. Born November 16, 1827, he was then not quite thirty-three; his tastes and accomplishments had, however, already shown him exceptionally eligible for participation in the work of the Society. At a previous election, five months earlier, Dr. Samuel Abbott Green had been chosen a member. For him and for Mr. Norton it was in store farthest to carry the traditions of an earlier day through the century of their birth into the next.

The recently published *Letters of Charles Eliot Norton* give so extensive a record of his life and spirit that it would be superfluous in this place to present a memoir dealing in detail with what he was and did. It is enough to bring forward only the salient facts. First among them are the fortunate circumstances of his birth and education. His father was a scholar, Professor Andrews Norton of Harvard College. Soon after his marriage, he and his wife, Catharine Eliot, acquired the Cambridge estate of Shady Hill, at which their only son who grew to manhood was born and died. The place afforded a social and intellectual background of the highest moment in the development and exercise of Charles Norton's qualities. Mr. Henry James has recently referred, in his *Notes of a Son and Brother*, to Shady Hill and "the Nortons" as "that institution and its administrators." No phrase could more happily state the case. The very permanence implied in an "institution" relates the earliest of Mr. Norton's years to his

latest, and gives to his life a unity seldom found in the biography of Americans.

The Cambridge boyhood came to an end with young Norton's creditable graduation from Harvard College with the Class of 1846. The Rev. Dr. John Pierce, who attended and made notes upon forty-six consecutive Commencements beginning with 1803, wrote in his journal for August 26, 1846: "A Dissertation, 'Santa Croce,' by Charles Eliot Norton, son of Professor Norton, was among the best exercises both for composition and elocution."¹ The charm of Italy was thus early exerting its spell over the young student. His graduation was followed by a few years of service in a Boston counting-house. In the employ of the firm of Bullard & Lee, he sailed in May of 1849 as supercargo of the ship *Milton*, bound for Madras. The voyage gave him an opportunity for reading, which he turned to remarkable advantage. The opportunities of travel, both in India and in a leisurely return to America by way of Europe, were no less steadily improved. As in all his later years, he gave himself everywhere to the study of the life which for the time surrounded him, in its political, artistic and social expression. In Paris, London and elsewhere he formed personal relations with many of the most interesting men and women of the time — Ary Scheffer, Lamartine, John Kenyon, Crabb Robinson, the Brownings — and, best of all, began a friendship with George William Curtis, fresh from his "Howadji" experiences, a friendship which in a life of many intimacies became one of the most vital. At the beginning of 1851, with his twenty-third birthday only two months behind him, he found himself at home again, with the choice between the careers of a merchant and a man of letters still to be made.

For a time there was a division of allegiance to the two pursuits. But the office on Central Wharf in Boston, where Mr. Norton undertook some ventures in East India commerce, was visited less and less frequently, until by 1855 his mercantile career may be said to have ended. Already, in 1852, he had published his first book, *Five Christmas Hymns*, and the death of his father, in 1853, had filled his hands with the editorial work involved in the posthumous publication of the elder Norton's writings. In 1853, also, he brought out his own

¹ 2 *Mass. Hist. Soc. Proceedings*, v. 249.

Considerations of Some Recent Social Theories, a thoughtful study of new tendencies now grown old, in which for the first time he appeared as author rather than editor. During his foreign travels the Norton family had become summer residents of Newport, and there, as at Shady Hill, the only son found much to engage him as the head of a household naturally drawing to itself all that was most agreeable in the life of its time and place. Mr. Norton's own friendships — with Lowell, Child, Stillman, Clough and others — began to take an important place among his interests. The friendship with Clough, especially, foreshadowed many intimacies with Englishmen of congenial spirit. It began with Clough's brief stay in America, in 1852-53, and was continued in a correspondence of nearly ten years, revealing Norton's keen interest in the events which led to the Civil War.

For about two years of the fifties, 1855-57, Norton, under medical orders for the strengthening of his health, was again in Europe. This time he was accompanied by his mother and two sisters. In Italy he made the beginnings of the studies of Dante which occupied him to the end of his life. There and in England he increased the circle of his lasting friendships, chiefly through his meetings with Mrs. Gaskell and John Ruskin. To many volumes of English and American biography the letters written to Norton by his friends have contributed an important element. His own published letters to them have filled out the picture, showing what a wealth of appreciation, wise counsel and affectionate service he brought to each of these relationships. It was during this second visit to Europe, for example, that he learned from Lowell's letters that the *Atlantic Monthly* was about to be established under his friend's editorship. Norton at once set himself to promote its success by securing contributions from English writers of the first order to whom he could appeal on personal grounds — Clough, Aubrey de Vere and Mrs. Gaskell. To the early numbers of the new magazine, moreover, he was himself a frequent contributor.

From his return to America in 1857 until 1868, when he went again to Europe, his own activities were largely editorial. His close relationship with Lowell brought the interests of the *Atlantic* constantly near to him. The approach and progress

of the Civil War gave ample opportunity for the exercise of his powers as a student of public matters, a moulder of public opinion — for to these fields of usefulness his personal tastes always directed him as strongly as to the pursuit of letters. The chief manifestation of this interest was made through Norton's editorial work for the New England Loyal Publication Society. The object of this organization was to supply the newspapers of the North with the best expressions of loyal sentiment, issued in "broadside" conveniently printed for republication. "In this way for three years," as Norton himself put it, "we did a good deal of the editing of several hundred journals, — and some of the articles to which we gave circulation must have been read by not less than a million of people." To this important service he added, for about five years from the end of 1863, the editorship of the *North American Review*, undertaken in collaboration with James Russell Lowell. Both as editor and as a frequent contributor he rendered valuable service in bringing the ancient quarterly to the warm support of the Union. When the war was ended he gave so much of his sympathy and active coöperation to the establishment of the *Nation* that Godkin wrote to him, after the journal had continued for a year: "If the paper succeeds, I shall always ascribe it to you, as without your support and encouragement I do not think I should have been able to endure to the end."

On May 21, 1862, Norton was married to Susan Ridley Sedgwick of Stockbridge and New York. They established themselves at Shady Hill, passing the summers from 1864 onward at Ashfield, Massachusetts, where Norton made for his family a second home. With all that concerned this typical New England hill village he identified himself from those early days, less in the spirit of a summer visitor than in that of a resident, bringing his friends, notably George William Curtis, to make it, with varying regularity, their own summer home, and, as time went on, enriching the life of the community in many ways. From 1865 to 1873, however, there was a long interruption in the American life of Norton and his family. These years were passed in Europe, chiefly in London and in Italy; and years of extraordinary fulness they were, both in human relationships and in the broadening of horizons for such

a student of art and letters as Norton had now become. Their overshadowing calamity was the death of Mrs. Norton at Dresden in February, 1872. The termination of a most congenial married life brought upon the survivor the care of six young children — a care which, in spite of all that their grandmother and aunts could do to lighten it, must have been well-nigh overwhelming. Yet Norton took up his life with a fortitude which made it through all the remaining years no mere compromise with circumstances, but a far-reaching force.

Nothing stands out more definitely in the record of these European years than the enrichment of Norton's life through the growth of old and new friendships. The letters to Lowell, Curtis, Chauncey Wright and others at home show clearly how little the ocean separated him from true intercourse with these friends. The correspondence is full of the friends he was seeing abroad — Ruskin, Carlyle, Leslie Stephen and a host of others. Supplementing these chronicles is a journal of daily doings, richest of all in its reports of conversations with Carlyle. They reveal the gentler aspects of Carlyle's nature, and contribute so much to a true understanding of him that the final portrait of this unique figure can hardly be painted without recourse to the colors on Norton's palette. Of Ruskin, too, there is so much of intimate and sympathetic characterization that the record is an invaluable contribution to literary biography. Indeed all these personal pages of Norton's writing bear evidence to the liveliness of his historical sense. Whether the possibility of the ultimate publication of his journal presented itself to him or not, he wrote as one conscious that good fortune had given him facts and impressions which it was his duty to preserve. The spirit was that of the true collector who will not permit a rare or beautiful object once within his grasp to elude him. In all his travels Norton collected not only ideas, but books, pictures, memorials of every sort related to the persons, thoughts and things in which his interest was enlisted.

Thus it was, when he returned to America, in the spring of 1873, not quite forty-seven years old, that he had prepared himself for the work of a teacher that lay before him. His cousin, Charles W. Eliot, then in the early years of his long administration of the college, had already made the needed

provision for this work, partly as an essential feature in his plan of a comprehensive university programme and partly, it may be surmised, to secure for Harvard the services, in a wholly new field, of one who, as he had good reason to feel assured, was both naturally adapted and, as it chanced, adventitiously equipped for the task proposed. This peculiar professorial work, with which Mr. Norton's name is most associated, occupied him virtually the rest of his life. It constituted his mission.

Yet it may fairly be questioned whether in 1874, when President Eliot invited Norton's entrance into this field, either of them fully appreciated the situation or realized the nature of the call. To have done so would have been prophetic; for, as we now see, the conditions then existing were without precedent and the riddle of the future was one no man could read aright. Only eight years before, the Civil War had come to a close. The waters, political and financial, so long and sorely troubled had not yet found their level of repose. With minds and memories still full of the experience through which their generation had passed, men, even the most far-seeing, could not measure the forces at work, as potent as they were novel, or fully take in both the ethical and material tendencies of the time. With ideals vague as lofty, Americans aspired; faith in themselves, in their country and its future, was practically unlimited. A general spirit of optimism prevailed. That the world was then passing into a new era — that of rapid development through applied science — was not realized; nor was the sobering fact appreciated that in a period of pronounced commercialism types of character of the higher order rarely manifest themselves. Thus, sympathizing in the main with a community just emerging from its trials into the triumph which marked the close of the Civil War, Norton could hardly have looked forward to writing of that community as follows to an English correspondent a quarter of a century later: "The rise of the democracy to power in America and in Europe is not, as has been hoped, to be a safeguard of peace and civilization. It is the rise of the uncivilized, whom no school education can suffice to provide with intelligence and reason. It looks as if the world were entering on a new stage of experience, unlike anything heretofore, in which there must be a new dis-

cipline of suffering to fit men for the new conditions. I fear that America is beginning a long course of error and of wrong, and is likely to become more and more a power for disturbance and for barbarism. The worst sign is the lack of seriousness in the body of the people; its triviality, and its indifference to moral principle."

So, when he entered upon his mission, Norton probably did not anticipate, any more than his kinsman at the head of the University anticipated, that the new professor's message was to be largely one of reaction against a present materialism and a species of mechanical intellectualism, to earlier and more mediæval conditions. Yet a vague, instinctive perception of the fact clearly possessed Norton himself; for he thus wrote, even at the commencement (1873): "This generation is given over to the making and spending of money, and is losing the capacity of thought. It wants to be amused, and the magazines amuse it." This to Carlyle; and again, to another correspondent, Russell Lowell: "And here, in this flourishing land of ours, you and I and the few men like us who care for the ideal side of life, are left from year to year in a smaller and smaller minority. . . . We stop at the high-school level." Finally (1895), referring long after to his own field of activity, the Fine Arts, he retrospectively wrote: "And nowhere are such study and knowledge more needed than in America, for nowhere in the civilized world are the practical concerns of life more engrossing; nowhere are the conditions of life more prosaic; nowhere is the poetic spirit less evident, and the love of beauty less diffused. The concern for beauty, as the highest end of work, and as the noblest expression of life, hardly exists among us, and forms no part of our character as a nation. The fact is lamentable, for it is in the expression of its ideals by means of the arts which render those ideals in the forms of beauty, that the position of a people in the advance of civilization is ultimately determined."

Thus, whether President Eliot at the outset realized it, or Professor Norton more than theoretically philosophized over it, the latter was to be, so to speak, a protestant — in a sense, a reactionist. It was for him to preach character and culture in a plutocratic world given over to eager scientific development. Mere money-making and vulgar ostentation were to

become more and more the end and aim of life. Norton's mission was thus forced upon him; but it was a very essential mission: and by those best acquainted with the world as it then was and the course of events that marked its subsequent progress, it will scarcely be denied that the message was delivered faithfully and courageously. What the voice of Ruskin was in Europe, Norton's, in a way, was in America — a protest against tendencies to the material constantly creeping on, an appeal, perhaps at times unconscious, from the Street to the Cloister. While the message was in itself of moment, the method of delivery is not to be lost sight of. That Norton fulfilled his mission with judgment as well as persistence will scarcely be denied. While he occupied the chair of Fine Arts at Harvard, it could not be said that the appreciation and pursuit of art for art's sake were not constantly preached and in fitting terms; nor could it be asserted that the seed thrown by the sower in this case fell by the wayside or in barren places. It did bear fruit. Yet, from the beginning to the end, the voice, though not that of one crying in the wilderness, was a voice pleading for art and culture, proclaiming sweetness and light, to an undergraduate generation, insensibly, perhaps, but more and more tending to the banker's counter, with an ultimate aspiration to a seat in the Stock Exchange.

There is, however, nothing new here. From time immemorial men of a certain stamp have deplored the "tendencies of the times," sternly denouncing what they are pleased to term the "spirit of the age," with its constantly deteriorating ideals. Nor in this has Harvard been in any way exceptional, or from it exempt. For instance, in 1696, Dr. Increase Mather, then President, announced in a discourse delivered to the students in the college hall that it was the "Judgment of very learned Men that in the glorious Times promised to the Church on Earth, *America* will be *Hell*"; while it was reserved for New England "to be the wofulest place in all *America*"; and, moreover, when the foregoing result in due time came about "this little Academy [will be] fallen to the ground." That indulgence in forecasts of this uncheerful character is in no respect fruitful, is hardly necessary to say; and Norton's merit lay in the fact that, while fully alive to the existence of tendencies he deplored, he never had recourse, in his classroom or else-

where, to the jeremiad. On the contrary, addressing himself to his audiences in a mood kindly and considerate, he sought to influence what he felt he could not control. Thus, though his personal relations with Ruskin were close, and the influence of the Englishman on the American was apparent, he did not permit himself to indulge in Ruskinian denunciations. Norton's efforts were exerted in an altogether different direction. He sought to educate, elevate and assimilate. And therein he showed insight; for in the body of American youth as represented at Harvard, while there is indisputably held in solution a large element drifting insensibly into "business," that element can yet be very perceptibly affected in the direction of art and public usefulness; it admits of refining. The late Gardiner Martin Lane constituted a striking case in point. Lane, after graduation, devoted himself to "business"; but his success therein was always subsidiary to higher ideals and a realizing sense of obligation at once controlling and abiding.¹ The teaching of Norton was therein reflected. Nor, though illustrative, was Lane's case exceptional. Thus, accepting unwelcome conditions, Norton's continuing effort was to influence them in the direction of loftier aims and purer ideals; and, in adopting this policy, not only did he evince worldly wisdom, but his efforts were in reality crowned with a degree of success not the less pronounced because unclaimed.

Mr. Norton's occupancy of the chair established for him in 1874 continued until 1898, when he became Professor Emeritus; and, during the ten years that then remained to him, giving himself less directly to the instruction of youth, he maintained, none the less, his distinctive place in the American community. A lover of his country, he was not infrequently distressed that his countrymen were not, in his belief, drawing from the past all that it had to yield; but he none the less continued constantly eager to bring them into vital relationship with what he regarded as the purest and loftiest ideals of char-

¹ Born at Cambridge, April 30, 1859, G. M. Lane was a son of George Martin Lane, Professor of Latin in Harvard College. Graduating in the class of 1881, Mr. Lane became a member of the banking firm of Lee, Higginson & Co. in 1892. In 1907 he became President of the Boston Museum of Fine Arts. He died, aged fifty-five, October 3, 1914.

acter and conduct. This was the gospel he preached; and the descendant of many of the earlier-time preachers could best deliver it to the college generations of the closing quarter of the nineteenth century. His eldest son once defined his college courses as "Lectures on Modern Morals as Illustrated by the Art of the Ancients" — and it was precisely because the definition had a basis in fact that what Norton preached had its far-reaching, vivifying effect in the field of ethics as of art. As Mr. Howells has recently written, "his make was essentially religious, Biblical, Puritanical, and, however he would have imagined himself Hellenic, he was in his heart Hebraic. That is, when he thought he was supremely loving beauty, he was supremely loving duty, the truth which is in beauty and is inseparably one with it." Nor is this otherwise than true and discerning of a man whose education began two centuries before his birth, and who later (1902) thus wrote of himself: "The greatest spiritual change in ourselves which the past forty years have wrought is, I take it, the change in our conceptions of the relation of man to the universe, and of the possibility of knowledge of anything whatsoever that lies outside the narrow limits set for us by our senses and by the constitution of our mental powers. For us at least, faith in human fancies about invisible things long since died away; and, for my own part, I have no sentimental regret at its vanishing. Without it, I find myself more in harmony with that exceedingly minute section of the universe to which I belong; not, indeed, in closer intellectual agreement with most of the good men and women my contemporaries, of whom all but an insignificant fraction are still living under the Ptolemaic dispensation, undisturbed in their practical conviction that this earth is the centre of the universe, and man the chief object of creation."

Viewed as a whole and through the fast lengthening perspective of the years, it is difficult to measure the enduring value of Norton's influence, ethical and artistic. It was sympathetically viewed to a certain extent by one of his disciples in a recent Phi Beta Kappa poem,¹ but influence of the kind exercised by Norton is elusive, largely because spiritual. Even so far as the record is concerned, few notable facts emerge from the annual round of academic duty. Yet Norton, a

¹ *In Memoriam*: by George Edward Woodberry, June 21, 1913.

writer before he was a teacher, never permitted his teaching to absorb all his interest or to become the sole fruit of his extraordinary industry. The list of his publications contains a large number of contributions to the periodical press and an enviable array of important books. In the field of pure scholarship his additions to the literature of Dante — the chief of which was his prose translation of the *Divine Comedy* (1891-92) — gave him a high, individual place. His more important other books were *Historical Studies of Church Building in the Middle Ages* (1880) and the notable succession of biographical volumes, in which his friendships went hand in hand with his labors. Chief among these were the *Correspondence of Thomas Carlyle and Ralph Waldo Emerson* (1883), *Early Letters of Thomas Carlyle* (1886), *Correspondence between Carlyle and Goethe* (1887), *Reminiscences of Thomas Carlyle* (1887), *Letters of James Russell Lowell* (1894), *Letters of John Ruskin to Charles Eliot Norton* (1904). The six volumes of his *Heart of Oak Books* (1894-95), "a collection of traditional rhymes and stories for children," must be placed among his definite services in the relating of literature to the daily life of his country.

The patriotic impulse was never absent. The apparent discrepancy between the motives which made Norton so strong a supporter of the war for the Union in 1861 and so persistent an opponent of the war with Spain in 1898 was apparent only. Behind both manifestations was a single ideal. In the first war he felt it realized; in the second, obscured or overthrown. The vitality of his ideal brought him into opposition with many of his countrymen, who failed at first to place a true value upon the need in a republic for the utterances of dissent. Especially was the Spanish War repugnant to him by reason of his own repugnance to the ideas with which the word "imperialism" is associated. It was often dissent from accepted public opinion which found vigorous expression at the series of "Ashfield Dinners" organized and directed by him through many summers. In the nature of the case, this expression was frequently unpopular. Hardly less inevitably, the independence of personal opinion for which he stood, and which he evoked in others, seems a more precious thing, a more stimulating ideal, when it becomes a memory.

Full of years and honors, Charles Eliot Norton died October 21, 1908. If he had only served his country as he did; if he had only implanted in many minds a new apprehension of beauty and obligation; if he had only been the friend and helper he was to a multitude of men and women, he would have held a special place in memory and affection. Holding it by virtue of all these claims, and more, he stands in remembrance a loved and separate figure, blending in itself the associations of the richest past with a personal force and benignity all too rare.



Francis C. Lane

MEMOIR
OF
FRANCIS CABOT LOWELL.

By FREDERIC JESUP STIMSON.

FRANCIS CABOT LOWELL, the son of George Gardner and Mary Ellen Parker Lowell, was born in Boston on January 7, 1855, of ancestry well known to us and of national distinction; a line of ministers, judges, diplomatists, poets, soldiers, distinguished citizens; loyal New Englanders; in politics consistent Whigs, Federalists and then Republicans; of origin, like most such, in Essex County, one a well-known member of the Essex Junto; loyal to their country in war, but with feet as firmly planted on the soil of Massachusetts as any Randolph of Virginia on hers.

So many of them have been members of our Society that even the mention of them becomes a repetition. The first John Lowell graduated at Harvard in 1721 and was clergyman at Newbury. His son John, Harvard 1760, was Judge of the United States District Court when it was first formed after the adoption of the Constitution, and made a member of the Circuit Court when that was created in 1801. A great-grandson of this Judge was the John Lowell, Harvard 1843, also a Judge of the United States District Court, from 1865 to 1878, and in the Circuit Court from 1879 to 1884. The first Judge Lowell was a Fellow of Harvard College. His second son was the Francis Cabot Lowell, Harvard 1793, who, together with Patrick Tracy Jackson, started the cotton manufactories at Waltham and gave his name to the city of Lowell. His son Francis Cabot Lowell, Harvard 1821, was a merchant and actuary of the Massachusetts Hospital Life Insurance Company; and his son again, George Gardner Lowell, was the father

of Judge Francis C. Thus our recently deceased member was third in a line of Judges of the same Federal court, and the second Fellow of Harvard College in direct descent. He was also an Overseer of Harvard from 1886 to 1893, and served in the Boston City Council for three years, and in the Massachusetts Legislature for three years, where he was the leading figure in the House of Representatives, Chairman of the Judiciary Committee, and undoubtedly would have become Speaker, but that he was appointed by President McKinley United States District Judge in 1898, so that John L. Bates, later Governor, was chosen Speaker instead. In the domain of practical politics the spoilsman has so far left the bench to merit alone, the one of our three branches of government not open primarily to political merit or as a reward of party service. For that very reason, perhaps, it is sometimes a preferment conveniently designed or indicated to the practical politician for a competitor of higher calibre. We still recognize that judicial office requires a special character and an arduous equipment, while anyone may lift the eye of ambition to the legislative or even the executive chair. May we only hope that the spirit of direct nomination and recall — both ideas ardently abhorred of our Judge Lowell — may not make havoc of even this distinction.

Judge Lowell had none of the tricks of the politician, unless party loyalty be one. I well remember how a classmate, after he had served three years at least in that not too formal body, the City Council, remarked with amusement that no one member had ever ventured to call Frank by his first name. It was to his unbending rectitude, his high standard, which in politics men recognize even when they do not follow, and his fair and judicial temperament that he owed his rapid political preferment. Yet had he not gone upon the bench, in all probability he would have become Governor, after the usual hieratic probation and promotion then in vogue in the councils of his party; but I doubt if he would have preferred this. A seat in a high court was far more congenial, and he lived to see his name mentioned for the highest of all such promotions. And then again his character was shown in that, as it was rumored, doubt was expressed in high places whether, in the application of our Constitution to the difficult problems of the insular

policy on which we were already embarked, he might not, though by no means an anti-imperialist, lean back too far.

No one doubted his qualifications for the place. Rarely has a judge been so seldom overruled. In the thirteen years of his services he rendered more than three hundred opinions, which were deemed worthy of printing in the *Federal Reporter*, where they may be found in volume 85 to volume 182; and of all those, only four times was he overruled by the Circuit Court of Appeals, and only once by the Supreme Court of the United States, which in one of its many affirmances expressly commended his "careful opinion." Perhaps the best known is the famous one *in re Halladjian*, 174 *Federal Reporter*, 834, decided in 1909, which broadens the definition of races capable of naturalization from the narrow limitation contended for by the government, under which negroes, Anglo-Saxons and western Europeans alone could become citizens, to the interpretation, both more liberal and more scientific, under which the definition "white" was extended to the Armenians of Turkey and Asia, later to the Syrians, and presumably may now include other races of Asiatic alien stock. For, by the accident of history, our Constitution as amended as a result of the Civil War only in terms permits and requires the naturalization of white and black races, not black and yellow; the red races, being indigenous, are born citizens, if not in tribal relation. Judge Lowell's line of reasoning was followed recently by a judge in California, in the case of a high caste Hindoo, yet several judges have refused to naturalize the Mexican, or at least the Mexican Indian. Uniformity of decision is to be desired; but until Congress further acts, our growing common law under Lowell's guidance places the possibility of naturalization on the sensible ground of race and civilization rather than color or religion. Lowell's opinion in this principal case, though only ten pages long, was a model of historical and ethnological learning. In other decisions he vindicated the right of state courts to interpret the common law of their own state and apply it against a contrary doctrine obtaining in United States courts, especially when real estate or matters of local application were concerned. His also was the decision making possible the existence of the Worcester Art Museum, by permitting it to take the three million dol-

lars devised to it by the will of Stephen Salisbury, although only chartered to hold five hundred thousand dollars. Perhaps his longest decision was that in the *Underwriter* case, where he settled the relative jurisdiction of local common law courts and United States Courts of Admiralty — but this is not the place for a legal criticism of his professional service.

He was not a frequent or facile writer. Unlike most lawyers or certainly judges, he contributed little to legal periodicals. He collaborated with his partner, now President Lowell of Harvard, in a textbook on the transfer of stock, which remains a standard work. Otherwise, besides an early anonymous novel, which, like many of us, he wrote for fun, when young, his only bound volume is a valuable and carefully written monograph on Joan of Arc, particularly discussing her trial from the lawyer's point of view, with regard to the rules on evidence then and now prevailing. He wrote the memoir of Senator George F. Hoar in the *Harvard Graduates' Magazine* in 1905, of Judge Horace Gray of the United States Supreme Court in the proceedings of the Academy of Arts and Sciences,¹ an article on the Free Church of Scotland in the *Columbian Law Review* of March, 1906, and a much quoted study of "The Boss," with other political essays, in the *Atlantic Monthly*. He delivered an oration before the Beverly Historical Society in April, 1896, and wrote the "Memoir" of General Francis A. Walker in December, 1897, published in our *Proceedings*.² In January, 1901, he paid a tribute to Governor Wolcott,³ and a letter to Mr. Rantoul in March, 1911, concerning his friend John Noble, late Clerk of the Supreme Judicial Court of Massachusetts, is appended to Mr. Rantoul's memoir,⁴ but already too ill to write, it is signed by his wife, who survives him.

He was married on November 27, 1882, to Cornelia Prime Baylies, of the well-known family of New York City and Taunton in this state; her ancestor, Judge Baylies, Judge of Probate, prominent, as was also a Lowell, in and about the Hartford Convention. One may read of both in the recent biography of Harrison Gray Otis by his great-grandson, Samuel Eliot Morison.

¹ Volume xxxix.

² *Ib.*, xiv. 388.

³ *Proceedings*, XIII. 303.

⁴ *Ib.*, XLIV. 561.

Much has been said that may not be said again, however deserving of repetition, in our associate Mr. Moorfield Storey's tribute published in our *Proceedings*:¹ "A gentleman in the best sense of the word, brave, frank, pure and courteous; an able judge, a public-spirited and most useful citizen. . . . He drew out what is good in men and repressed what was bad." These words at least we may say over again.

It is his personal character that the writer would most like to describe, his personality and his life. Yet it is difficult in that it was in a certain sense uneventful. Serene, not dramatic; he had no accidents of flood or field, nor unusual travel, nor wide acquaintance with men and cities. In later years, when his health was already failing, he much enjoyed a summer with his wife in Greece. He was passionately fond of his country in a literal sense; that is to say, the hills and shores of Massachusetts. Sailing his boat from his home at Cotuit, long driving excursions to the nearer mountains, or, when time permitted not these, even daily bicycle trips in the environs of Boston made up his greater pleasures. He was not a sportsman and he played no games. A Unitarian in faith, somewhat of a Calvinist in temperament, both qualities summed up in the schoolboy epithet one's playfellows so readily invent and apply — "the blameless." But if blameless in conduct, in imagination, there was nothing of the mollycoddle about his intellectual make-up. He was a strong party man and secretly, I think, believed that those of the opposing party should not have too much recognition, certainly should lay no hand on the helm. He was a partisan without being narrow; strong in his adherence to a religious denomination without being in the least bigoted; strong in his adherence to a political party without losing his fair-mindedness. He was a Federalist of New England, hence he could combine the democratic belief of local self-government with the less democratic one that those who are best fitted should rule. He would, not too flippantly, discuss with you whether the buying of votes was not justifiable. His whole mental make-up was that of the eighteenth century Whig, intolerant of the modern Tory democrat. He only once followed the will-of-the-wisp of mugwumpery, and then he had orthodox companions. The Republican

¹ *Proceedings*, XLIV. 580.

and Independent Club was composed of John F. Andrew, President; Roger Wolcott, Vice-President; John T. Wheelwright, Secretary, and Francis C. Lowell, Assistant Secretary — all four later to become steady party men. But even in 1884 Judge Lowell's character was shown in that, being delegated to write an attack on James G. Blaine justifying the independent revolt, he wrote so fairly that the attack became an exoneration and the mugwumps could not use it as campaign material (see Boston *Daily Advertiser* files, 1884); and in 1889 we find him conducting the campaign of Edward L. Pierce against John F. Andrew for Congress. For this was his one political escapade: he believed in the necessity of a party machine and would have recognized the two party whips of Trollope's parliamentary novels as performing a necessary if not elevated function. Yet with all this, he was of serene good temper, tolerant if not intelligent of other minds; in short, a man whose temperament and convictions led him to act with a definite organization of men without impairing his judicial temperament.

Speaking as one who has known him more than forty years, he well represented all that is Massachusetts at her best. She never bred a man in conduct and in judgment to be more trusted.